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NATO AGREEMENTS ON STATUS: TRAVAUX PRÉPARATOIRES

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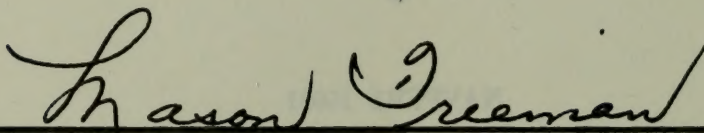
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FOREWORD

Since the founding of the Naval War College in 1884, the study of international law has been an important part of the curriculum. From 1894 to 1900 some of the lectures on international law and the problem situations studied were compiled and printed with a limited distribution. Commencing in 1901, however, the first formal volume of the Naval War College's "Blue Book" series was published. This book is the fifty-fourth volume in the series as numbered for cataloging and reference purposes.

This present volume is written by the Reverend Joseph M. Snee, S. J., Professor of Law, Georgetown University Law Center. Father Snee has collected, annotated and arranged, in a manner suitable for easy reference, a mass of material comprising the negotiating history of the three principal NATO agreements on the legal status of military forces. The three agreements prescribe the status of NATO personnel in countries where they are present for the purpose of official duties. Father Snee's compilation and commentary should prove to be a most valuable source of reference material in this particular area of international law.

While this material has been processed as required by SECNAVINST 5600.16 of 2 November 1960, the opinions expressed in this volume and the decisions on selection of materials to be reproduced are those of the author and not necessarily those of the United States Navy or of the Naval War College.

JOHN T. HAYWARD
Vice Admiral, U.S. Navy
President, Naval War College

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² See note 1, *supra*.

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³ See note 1, *supra*.

INTRODUCTION

The Development of NATO

The North Atlantic Treaty¹ was signed in Washington on 4 April 1949 by the Foreign Ministers of Belgium, Canada, Denmark, France, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, the United Kingdom and the United States, and was subsequently ratified by all twelve nations. A Protocol² signed by the Council Deputies in London on 22 October 1951 agreed to the accession of Greece and Turkey, which acceded to the Treaty on 18 February 1952. A further Protocol³ signed by the North Atlantic Council in Paris on 23 October 1954 led to the accession of the Federal Republic of Germany on 5 May 1955.

The North Atlantic Treaty Organization (NATO) is not mentioned by name in the North Atlantic Treaty. The genesis of the Organization as it exists today can, however, be traced to the establishment, in Article 9 of the Treaty, of the North Atlantic Council and the authorization of other subsidiary bodies:

The Parties hereby establish a council, on which each of them shall be represented, to consider matters concerning the implementation of this Treaty. The Council shall be so organised as to be able to meet promptly at any time. The Council shall set up such subsidiary bodies as may be necessary; in particular it shall establish immediately a defence committee which shall recommend measures for the implementation of Articles 3 and 5.

At the first session of the Council, in Washington on 17 September 1949, it was decided that the Foreign Ministers of the NATO countries would comprise the "normal" membership of the Council, and that any subsidiary bodies which were set up would be subordinate to the Council. The fourth session of the Council, held in London on 15-18 May 1950, resulted in the creation of the "Council Deputies" (meaning Deputies representing their Foreign Ministers) who were to remain in permanent session in London, where the second session had already set up a permanent international working staff. The

¹ 63 Stat., pt. 2, 2241, TIAS 1964, 34 UNTS 243.

² 3 UST 43, TIAS 2390, 126 UNTS 350.

³ 6 UST 5707, TIAS 3428, 243 UNTS 308.

ninth session of the Council, held in Lisbon on 20-25 February 1952, resulted in a radical reorganization of the various civilian institutions of the North Atlantic Treaty Organization. The Council Deputies, established in 1950, were abolished. The Council was to remain in permanent session with effective powers of decision. The Council was to be comprised of Permanent Representatives appointed to it by each of the NATO States. It was to take up its headquarters in the Paris area and was to be served by a single International Staff/Secretariat. The meetings of the Permanent Council were to be presided over by a permanent Vice-Chairman, who would also be the Secretary General of the North Atlantic Treaty Organization and responsible for the organization and work of the Staff/Secretariat.

On the military side, by the time the Council held its fifth session, in New York on 15-18 September 1950, it was clear that the military security of the NATO countries required the creation of an integrated military force under a Supreme Commander supported by an international staff and subject to the direction of the subsidiary body of the Council called the Standing Group. In accordance with a decision reached at the sixth session of the Council, held in Brussels on 18-19 December 1950, the United States nominated and the Council confirmed General Eisenhower as Supreme Allied Commander Europe (SACEUR), who chose a site near Paris for the Supreme Headquarters Allied Powers Europe (SHAPE). Also on the military side, several of the NATO countries, and particularly the United States, had armed forces serving on the territories of other NATO countries in connection with the operations of the North Atlantic Treaty.

The Agreements on Status

It was this development of the North Atlantic Treaty Organization which created the necessity for some form of multilateral agreement to define the status of NATO personnel, both civilian and military, in the countries where they were present for the performance of their official duties. It was also necessary to define the juridical status of the Organization itself vis-à-vis the national law of the various countries in which the Council or its subsidiary bodies were present and operating. The result was the three principal NATO agreements on status, whose "negotiating history" is contained in the present volume. These three agreements are:

1. Agreement between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces,⁴ signed in Washington on 19 June 1951;

⁴ 4 UST 1792, TIAS 2846, 199 UNTS 67. It is reproduced at page 13, *infra*.

2. Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff,⁵ signed in Ottawa on 20 September 1951; and
3. Protocol on the Status of International Military Headquarters Set up Pursuant to the North Atlantic Treaty,⁶ signed in Paris on 28 August 1952.

Of these three agreements, the first to be drafted and signed was the Status of Forces Agreement. Since the United States maintained the largest contingent of troops in other NATO countries, it was perhaps natural that the first draft of this Agreement was submitted by the United States Deputy,⁷ who used as the basis for his draft the earlier Agreement Relative to the Status of Members of the Armed Forces of the Brussels Treaty Powers⁸ which had already been agreed to by five of the twelve NATO countries—Belgium, France, Luxembourg, the Netherlands and the United Kingdom—although it had never been ratified.

The Status of Forces Agreement deals with the problems arising from the stationing of the armed forces of one NATO country in the territory of another.⁹ The Preamble makes it clear that the Agreement merely defines the status of these forces when they are sent to another NATO country; it does not of itself create the right to send them in the absence of a special agreement to that effect. After a definition of terms (Article I), the Agreement states the obligation of such forces to respect the law of the receiving State (Article II). Special provisions are made for the entry, presence and departure of military and civilian personnel, with relaxation of the customary immigration procedures (Article III). Rules are laid down for the issuance of driving permits (Article IV), the wearing of uniform and the marking of service vehicles (Article V), and the carrying of arms (Article VI). Article VII, dealing with the question of criminal jurisdiction, proved both difficult and controversial.¹⁰ It recognizes the right of both the sending and the receiving State to exercise jurisdiction, exclusive when an act constitutes an offense against the law of only one of the two States, and concurrent in all other cases.

⁵ 5 UST 1087, TIAS 2992, 200 UNTS 3. It is reproduced at page 34, *infra*.

⁶ 5 UST 870, TIAS 2978, 200 UNTS 340. It is reproduced at page 43, *infra*.

⁷ D-D(51) 23 (23 January 1951).

⁸ Cmd. 7868, reproduced at page 331, *infra*.

⁹ For a thorough discussion of the Status of Forces Agreement, see Lazareff, *Le Statut des Forces d'O.T.A.N.*, Paris, 1964.

¹⁰ A discussion of Article VII, based on both the negotiating history and a field study of its actual operation in reference to United States personnel in several of the NATO countries, will be found in Snee and Pye, *Status of Forces Agreements: Criminal Jurisdiction*, New York, 1957.

Where jurisdiction is concurrent, the sending State is given primary right to exercise it in specified cases, with the residual right remaining in the receiving State. Article VIII, on claims for damage, also caused difficulty, particularly the question of the apportionment of costs. Other provisions of the Agreement deal with procurement (Article IX), taxation (Article X), customs duties and exemptions therefrom (Articles XI–XIII), foreign exchange controls (Article XIV). Article XV concerns the applicability of the Agreement to wartime conditions. Other provisions deal with the settlement of disputes (Article XVI), revision of the Agreement (Article XVII), ratification and accession (Article XVIII), denunciation (Article XIX), and application of the Agreement to colonial territories (Article XX).

The Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff concerns NATO civilian personnel and in the course of the negotiations is not infrequently referred to as the “Civilian Status Agreement.” It was the first of the three status agreements to be proposed,¹¹ although it was not until 1 March 1951 that the first draft was submitted to the Council Deputies.¹² Since both the Council Deputies and the international staff were then located in London, it was the United Kingdom Deputy who initiated action toward such an agreement.¹³ His draft drew largely upon the provisions in already existing agreements concerning the status of international organizations: the United Nations,¹⁴ its Specialized Agencies,¹⁵ the Organization for European Economic Cooperation (OEEC),¹⁶ and the Council of Europe.¹⁷

The Agreement on the Status of NATO, National Representatives and International Staff is divided into seven Parts. Part I, contain-

¹¹ See: D–R(50) 1, par. 7–8 (25 July 1950); D–R(50) 8, par. 13–17 (4 August 1950); D–R(50) 43, par. 55–56 (17 December 1950).

¹² D–D(51) 58 (1 March 1950).

¹³ See D–R(50) 8, par. 16 (4 August 1950).

¹⁴ Convention on the Privileges and Immunities of the United Nations. Adopted by the General Assembly of the United Nations on 13 February 1946. 1 UNTS 15.

¹⁵ Convention on the Privileges and Immunities of the Specialized Agencies. Approved by the General Assembly of the United Nations on 21 November 1947. 33 UNTS 262.

¹⁶ Convention for European Economic Cooperation, signed at Paris on 16 April 1948. Treaty Series, No. 59 (1949), Cmd. 7796, 43 Am. J. Int. L., Supp. 94 (1949). The status provisions are found in Supplementary Protocol No. 1 to the Convention for European Economic Cooperation on the Legal Capacity, Privileges and Immunities of the Organisation, *ibid.*

¹⁷ Statute of the Council of Europe, signed at London on 5 May 1949. 87 UNTS 103.

ing general provisions, defines terms in the Agreement (Article 1), its non-applicability to military headquarters or other military subsidiary bodies (Article 2) and the obligation of the Organization to guard against any abuse of the immunities and privileges created by the Agreement (Article 3). Part II deals with the North Atlantic Treaty Organization itself, granting it juridical personality (Article 4), immunity from legal process (Article 5) and inviolability of its premises, property and documents (Articles 6–7). It is freed from currency control restrictions (Article 8) and censorship (Article 11). Provisions for exemption from taxation are made in Articles 9–10. Part III deals with the immunities and privileges of the Representatives of member States to the Organization and their staffs (Articles 12–16), while Part IV defines the privileges and immunities of officials of the International Staff/Secretariat and those of experts on missions for the Organization (Articles 17–23). Other provisions of the Agreement concern the settlement of disputes (Part V—Article 24), supplementary agreements (Part VI—Article 25), and procedures for ratification and denunciation of the Agreement (Part VII—Articles 26–27).

The third NATO agreement on status is the Protocol on the Status of International Military Headquarters Set up Pursuant to the North Atlantic Treaty. The possibility of such an agreement seems to have been first raised on 26 April 1951 at a meeting of the Working Group on Status in reference to the question whether the Status of Forces Agreement was applicable to integrated military headquarters such as SHAPE. At that time the French Representative stated that his Government was engaged in negotiations with SHAPE on this matter, and the Chairman suggested that it could be best dealt with in the form of a Protocol to the Status of Forces Agreement.¹⁸ The question was raised again on 19 June 1951 at the time of the signing of the Status of Forces Agreement, and the French Deputy referred to the France-SHAPE negotiations on this subject.¹⁹ The result of these negotiations was the first draft of the Protocol, which was laid before the Council Deputies in December 1951 by the French Deputy.²⁰

The Protocol applies automatically to “Supreme Headquarters Allied Powers in Europe (SHAPE), Headquarters of the Supreme Allied Commander Atlantic [SACLANT] and any equivalent international military Headquarters set up pursuant to the North Atlantic Treaty,” (Article 1), as well as to international military headquarters

¹⁸ See MS-R(51) 16, par. 23–24 (26 April 1951).

¹⁹ See D-R(51) 48, par. 7 (19 June 1951).

²⁰ See D-D(51) 300(R) (3 January 1952).

immediately subordinate to a Supreme Headquarters (Articles 1–2). The Council may decide to extend it to other headquarters as well (Article 14). With regard to such headquarters and their personnel, civilian and military, the Protocol has two purposes. First, it adapts to the headquarters and personnel the provisions laid down in the Status of Forces Agreement in regard to sending States and their personnel (Articles 3–8). Secondly, it creates a special status for such headquarters which is analogous to that created for the Council and its subsidiary civilian bodies by the Agreement of 20 September 1951. In the latter category fall provisions for the relief of headquarters from taxation (Article 8), the disposal of assets or installations no longer needed (Article 9), the grant to Supreme Headquarters of juridical personality and other legal capacities (Articles 10–11), freedom from currency restrictions (Article 12) and inviolability of archives and documents (Article 13).

Four supplementary agreements with their negotiating history are included in this volume, because they were negotiated at the same time as the three principal agreements on status and influenced the development of the latter; they should therefore be considered with them.²¹ These are:

1. the bilateral agreement between France and SHAPE, supplementary to the Protocol, defining the conditions for the establishment and operation of Allied Headquarters in France;²²
2. the administrative arrangement establishing a procedure for the filing, consideration and payment of claims under Article VIII of the Status of Forces Agreement;²³
3. a bilateral agreement between the United States and NATO concerning the employment of United States nationals by the Organization, in implementation of Article 19 of the Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff;²⁴
4. a similar bilateral agreement between the United States and NATO on the employment of United States nationals by Allied Headquarters, in implementation of Article 7 of the Protocol.²⁵

²¹ See the statement by the French Deputy on the interrelation between the Protocol and the France-SHAPE bilateral agreement: D-D(52) 2, par. 5 (3 January 1952).

²² Original draft, D-D(51) 301(R) (3 January 1952).

²³ Original draft, D-D(51) 269 (29 October 1951).

²⁴ D-D(51) 252 (9 October 1951).

²⁵ ISM(52) 31 (19 November 1952). The Agreement itself, however, was signed in February 1953.

The Negotiating History

In the case of each of the three principal NATO agreements on status, an original draft was submitted to the Council Deputies by the Deputy for the Government most immediately concerned—the United States (Status of Forces), the United Kingdom (Status of NATO), and France (the Protocol). This original draft, together with subsequent redrafts, served as the basis for discussions.

The negotiations themselves were conducted on two levels: (a) by a Working Group, assisted by a Financial Subcommittee and a Juridical Subcommittee; and (b) by the Council Deputies, who were succeeded, after the reorganization of NATO in 1952, by the Council itself. The Working Group consisted of one Representative for each of the twelve NATO countries; the two Subcommittees had the same membership. The discussions at the meetings are reported in *Summary Records*, while related papers (including the texts of the agreements at various stages) are referred to as *Documents*. The two classes of papers are arranged in the following series:

Records

MS-R(51)	Meetings of the Working Group (1951)
MS-R(52)	Meetings of the Working Group (1952)
MS(F)-R(51)	Meetings of Financial Subcommittee (1951)
MS(J)-R(51)	Meetings of Juridical Subcommittee (1951)
D-R(51)	Meetings of the Council Deputies (1951)
D-R(52)	Meetings of the Council Deputies (1952)
C-R(52)	Meetings of the Council (1952)
C-R(53)	Meetings of the Council (1953)
C-R(54)	Meetings of the Council (1954)

Documents

MS-D(51)	Working Group Documents (1951)
MS-D(52)	Working Group Documents (1952)
D-D(51)	Deputies Documents (1951)
D-D(52)	Deputies Documents (1952)
C-M(52)	Council Memorandum (1952)
C-M(53)	Council Memorandum (1953)
ISM(52)	International Staff Memorandum (1952)

In each of these series, a Record or Document was assigned a number as the meeting was held or the document issued. Thus, MS-R(51) 1 contained the Summary Record of the first 1951 meeting of the Working Group, while MS-D(51) 1 was the first document issued by the Secretariat in that series. Occasionally, a revised or final version of a particular document was issued; this is indicated by (R) or (F) after the reference, e.g., MS-D(51) 11(R) is the revised version of MS-D(51) 11, while MS-D(51) 11(2R) is the second revised version of the same document. For documents containing a draft text of an

agreement, further reference is to the Article of the draft agreement and to particular paragraphs of that Article, e.g., MS-D(51) 11(2R), Article VII, par. 2(a). In the case of other documents, as well as the Summary Records, further reference is to paragraphs, e.g., MS-R(51) 16, par. 22.

Since the same Record or the same Document may refer to more than one of the agreements involved, it was not possible to separate them into three distinct groupings, each referring to one of the agreements. Instead, they are arranged, with a few exceptions, as they occurred chronologically. Since not all the Records or Documents in a particular series refer to these agreements on status (and sometimes not all of any particular Record or Document), gaps will be noticed in the various series. In some cases, particularly in Deputies Records or Deputies Documents, only that part of the Record or Document which refers to the status agreements has been declassified.

The mass of materials comprising the negotiating history of the three NATO agreements on status has been arranged in this volume with a view to maximum usefulness and ease of reference. Part I contains the final text of the three agreements in the form in which they were signed, although the actual signatures have not been reproduced here. Part II contains the Summary Records, arranged in chronological order with a few minor variations from that order.²⁶ Part III contains the Documents also arranged, with a few exceptions,²⁷ in chronological order. Within Parts II and III, no separate division has been made between the Deputies and the Working Group series.

Tables and Indices

There is a General Table of Contents, followed by a special table of contents for each of the three agreements. These four tables have the same arrangement: Part I (final text), Part II (Summary Records), and Part III (Documents). The tables of contents have been set up with special indentations to enable the reader to distinguish the various series of Records and Documents at a glance. In each of the special tables of contents, those documents which contain a draft version of the particular agreement are indicated by an under-

²⁶ There is a slight overlap in the chronology of the meetings of the two Subcommittees, in the MS(F)-R(51) and the MS(J)-R(51) series, and D-R(51) 11 was, for obvious reasons, also placed slightly out of chronological order.

²⁷ The order of enumeration in a series of documents has been followed even though this may differ slightly from the chronological order, the most notable example being the case where a document appeared in a revised version, i.e., MS-D(51) 11, MS-D(51) 11(R), and MS-D(51) 11(2R).

line, and the text of these drafts is analyzed in the parallel tables at the end of the volume.

There is a parallel table of texts at the end of the volume for each of the three agreements on status which is an essential tool for a study of the negotiating history of these agreements. In each of these tables the first column refers to the final text of the particular agreement, Article by Article and paragraph by paragraph. The parallel columns refer to the corresponding Articles and paragraphs found in earlier drafts of the same agreement, i.e., in those documents which are underlined in the tables of contents. Thus, if one wishes to trace the development, e.g., of the provisions on double jeopardy in paragraph 8 of Article VII of the Status of Forces Agreement, the parallel table will list the Article and paragraph in which that provision appeared in the earlier drafts. Reference to the draft itself in the Documents series will give the text of the earlier version, and recourse to the discussions in the Summary Records (and sometimes in other documents) will indicate the reasons which were advanced for changing the text. To facilitate such cross-reference, footnotes for each Summary Record indicate the particular document there under discussion, and footnotes for each document indicate the part of the Summary Record where that document is discussed.

There is also an "Article Index" for each of the three agreements, which provides another tool for research into the negotiations which led to the final form of a particular provision in the agreements. This "Article Index" breaks down the agreement according to the Articles and paragraphs in the final text and then lists under that heading the exact place in each Summary Record and document (other than earlier draft referred to in the parallel table) where that provision is discussed or mentioned. Thus, under the heading "Article VII, paragraph 8" in the Article Index for the Status of Forces Agreement are listed all places in the Summary Records and the Documents where the question of double jeopardy is discussed. The Article Index and the Parallel Tables thus offer two alternate routes for tracing the negotiating history of any particular provision in the agreements.

Norms for Editing

In considering the norms to be followed in editing the NATO papers on status for publication, it should be remembered that the editor had to deal with a vast mass of mimeographed materials concerning in one way or another the negotiations leading to the three final agreements. These were prepared day by day for the use of

the Working Group or the Deputies over a period of more than two years and without thought to the niceties of form involved in ultimate publication. Some of the matters covered by these papers were of transitory interest only—such as reports on how many States had so far ratified, what they were doing toward provisional implementation in advance of ratification, procedural points such as the time of the next meeting, etc. They were prepared by more than one typist or stenographer, with the result that sometimes even the same Record or Document shows inconsistencies in spelling and punctuation, depending upon the British or American background and training of the particular stenographer or typist. All of these considerations, as well as others, made it necessary to formulate certain norms to be followed in editing these papers for publication. Candor suggests that these norms be outlined here.

1. Papers referring to purely transitory arrangements or problems (such as the progress of ratification, provisional implementation) have generally been omitted, as well as parts of papers dealing with such matters.

2. Materials relating to supplementary agreements and, in general, those which follow the signing of each of the agreements have been omitted. A few exceptions have been made, particularly in reference to the four supplementary agreements mentioned earlier in this Introduction.

3. I have omitted from the manuscript the following matters contained in the mimeographed papers (usually at the head): (a) whether the original text was in French or English—all translations being official, with one exception;²⁸ (b) the security classification of each paper—all of those contained in this volume having been downgraded to unclassified; (c) the date on which Summary Records were issued (but the date is indicated on which the meetings were *held*); (d) the list of those present at meetings (but the nationality of the Chairman is indicated, since he sometimes spoke in his capacity of national representative); and (e) the place and time of meetings. Also omitted, in most cases, have been purely covering notes by the Secretary when distributing a document.

4. Unnecessary duplication of documents has been eliminated. Thus, where a particular text appeared in identical form in several documents, it has been retained in only one and the omission of the others has been noted.

²⁸ No official English translation was made for MS(J)-R(51) 4, for which the mimeographed Record gives only the French text. The English version in this volume was translated by the editor from the French original, and all textual quotations therein are from the English documents.

5. The wording has been changed where a reference was to a particular *line* of the mimeographed text, since such a reference would be meaningless in a printed volume.

6. Where official corrections or additions to a Record or a Document were subsequently made, the correction or addition has generally been inserted in the proper place without further note, although in a few cases the fact has been noted.

7. A standard format has been adopted for the main heading of each Record and Document, in place of the somewhat haphazard variations found in the original mimeographs. Within the Records and Documents, subheadings have often been simplified or standardized, particularly where it was unclear in the original which agreement or which text was being referred to. Some subheadings have been deleted as unnecessary; others have been amplified to facilitate reference, i.e., "paragraph 6" becomes "Article VII, par. 6."

8. While most of the Records and Documents have consecutive numbers for the paragraphs, there were a few with unnumbered paragraphs and a few others with non-consecutive enumeration. In such cases, I have supplied consecutive numbering for all paragraphs and noted this fact in a footnote, the purpose being to facilitate reference.

9. As noted above, there are many discrepancies in spelling even within the same Record or Document, depending upon the predilections of the typist. In dealing with this problem I have followed this procedure:

- (a) In the case of earlier texts of the three final documents, quotations therefrom or amendments thereto, the spelling has (wherever it differed) been made to conform to that of the final version—in general, the British practice. The same procedure was followed in the enumeration of Articles and paragraphs (Roman versus Arabic numerals) and in the indentation of subparagraphs.
- (b) Elsewhere, since the greater part of other materials followed the American spelling practice, any inconsistencies have been made to conform to that practice.

10. Every effort has been made to keep footnotes to a minimum. In most cases, footnotes have been added by the editor; in others, they contain information which, for simplicity of format, has been dropped down from the text, i.e., "Previous references." Where a footnote is found in the original, this fact has been indicated, although the footnote itself, if necessary, has been renumbered. In the text of final documents, footnote references are in square brackets.

The necessity for some editing of the mimeographed materials is,

I think, quite clear. The norms mentioned above were adopted in an effort to produce a readable and useful text while at the same time being faithful to the original. In steering this editorial course between Scylla and Charybdis, I trust that I have been moderately successful.

Acknowledgments

It is almost ten years since the work of gathering and editing these materials first began. During that time I have received much help and encouragement from many people, as well as an occasional prodding when my interest or energies began to lag. A special expression of thanks is due to several individuals. I wish to thank Professor Richard R. Baxter, Harvard Law School, for first suggesting this work. Both Harvard Law School and the Georgetown University Law Center gave grants-in-aid to defray the expenses of gathering and collating the materials. Monroe Leigh, Jere Dykema and Ben Forman—all in the Office of General Counsel, Department of Defense—were indefatigable in procuring the declassification of most of the documents in question and in helping me to obtain copies of these materials, a task in which great effort was also expended by the personnel of USRO in Paris and the members of the International Staff. A word of thanks is due also to the staff at the Naval War College for their continued interest—and patience—while the present volume slowly edged its way to completion. Finally, I should like to thank the Fathers at El Retiro in Los Altos, California, who provided a quiet and pleasant haven where I could do without interruption the final work on this volume.

Joseph M. Snee, S.J.

Georgetown University Law Center
1 December 1966

PART I. FINAL TEXT OF THE NATO AGREEMENTS ON STATUS

A. AGREEMENT BETWEEN THE PARTIES TO THE NORTH ATLANTIC TREATY REGARDING THE STATUS OF THEIR FORCES ¹

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949,²

Considering that the forces of one Party may be sent, by arrangement, to serve in the territory of another Party;

Bearing in mind that the decision to send them and the conditions under which they will be sent, in so far as such conditions are not laid down by the present Agreement, will continue to be the subject of separate arrangements between the Parties concerned;

Desiring, however, to define the status of such forces while in the territory of another Party;

Have agreed as follows:

ARTICLE I

1. In this Agreement the expression—

- (a) “force” means the personnel belonging to the land, sea or air armed services of one Contracting Party when in the territory of another Contracting Party in the North Atlantic Treaty area in connexion with their official duties, provided that the two Contracting Parties concerned may agree that certain individuals, units or formations shall not be regarded as constituting or included in a “force” for the purposes of the present Agreement;
- (b) “civilian component” means the civilian personnel accompanying a force of a Contracting Party who are in the employ of an armed service of that Contracting Party, and who are not stateless persons, nor nationals of any State which is not a Party to the North Atlantic Treaty, nor

¹ TIAS 2846; 4 UST 1792; 199 UNTS 67. The above text was distributed, for purposes of information, as D-D(51) 178(F) (omitted here) on 10 July 1951.

² 63 Stat., pt. 2, 2241; TIAS 1964; 34 UNTS 243.

nationals of, nor ordinarily resident in, the State in which the force is located;

- (c) “dependent” means the spouse of a member of a force or of a civilian component, or a child of such member depending on him or her for support;
- (d) “sending State” means the Contracting Party to which the force belongs;
- (e) “receiving State” means the Contracting Party in the territory of which the force or civilian component is located, whether it be stationed there or passing in transit;
- (f) “military authorities of the sending State” means those authorities of a sending State who are empowered by its law to enforce the military law of that State with respect to members of its forces or civilian components;
- (g) “North Atlantic Council” means the Council established by Article 9 of the North Atlantic Treaty or any of its subsidiary bodies authorised to act on its behalf.

2. This Agreement shall apply to the authorities of political subdivisions of the Contracting Parties, within their territories to which the Agreement applies or extends in accordance with Article XX, as it applies to the central authorities of those Contracting Parties, provided, however, that property owned by political sub-divisions shall not be considered to be property owned by a Contracting Party within the meaning of Article VIII.

ARTICLE II

It is the duty of a force and its civilian component and the members thereof as well as their dependents to respect the law of the receiving State, and to abstain from any activity inconsistent with the spirit of the present Agreement, and, in particular, from any political activity in the receiving State. It is also the duty of the sending State to take necessary measures to that end.

ARTICLE III

1. On the conditions specified in paragraph 2 of this Article and subject to compliance with the formalities established by the receiving State relating to entry and departure of a force or the members thereof, such members shall be exempt from passport and visa regulations and immigration inspection on entering or leaving the territory of a receiving State. They shall also be exempt from the regulations of the receiving State on the registration and control of

aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territories of the receiving State.

2. The following documents only will be required in respect of members of a force. They must be presented on demand:

- (a) personal identity card issued by the sending State showing names, date of birth, rank and number (if any), service, and photograph;
- (b) individual or collective movement order, in the language of the sending State and in the English and French languages, issued by an appropriate agency of the sending State or of the North Atlantic Treaty Organisation and certifying to the status of the individual or group as a member or members of a force and to the movement ordered. The receiving State may require a movement order to be countersigned by its appropriate representative.

3. Members of a civilian component and dependents shall be so described in their passports.

4. If a member of a force or of a civilian component leaves the employ of the sending State and is not repatriated, the authorities of the sending State shall immediately inform the authorities of the receiving State, giving such particulars as may be required. The authorities of the sending State shall similarly inform the authorities of the receiving State of any member who has absented himself for more than twenty-one days.

5. If the receiving State has requested the removal from its territory of a member of a force or civilian component or has made an expulsion order against an ex-member of a force or of a civilian component or against a dependent of a member or ex-member, the authorities of the sending State shall be responsible for receiving the person concerned within their own territory or otherwise disposing of him outside the receiving State. This paragraph shall apply only to persons who are not nationals of the receiving State and have entered the receiving State as members of a force or civilian component or for the purpose of becoming such members, and to the dependents of such persons.

ARTICLE IV

The receiving State shall either

- (a) accept as valid, without a driving test or fee, the driving permit or licence or military driving permit issued by the sending State or a sub-division thereof to a member of a force or of a civilian component; or

- (b) issue its own driving permit or licence to any member of a force or civilian component who holds a driving permit or licence or military driving permit issued by the sending State or a sub-division thereof, provided that no driving test shall be required.

ARTICLE V

1. Members of a force shall normally wear uniform. Subject to any arrangement to the contrary between the authorities of the sending and receiving States, the wearing of civilian dress shall be on the same conditions as for members of the forces of the receiving State. Regularly constituted units or formations shall be in uniform when crossing a frontier.

2. Service vehicles of a force or civilian component shall carry, in addition to their registration number, a distinctive nationality mark.

ARTICLE VI

Members of a force may possess and carry arms, on condition that they are authorised to do so by their orders. The authorities of the sending State shall give sympathetic consideration to requests from the receiving State concerning this matter.

ARTICLE VII

1. Subject to the provisions of this Article,
 - (a) the military authorities of the sending State shall have the right to exercise within the receiving State all criminal and disciplinary jurisdiction conferred on them by the law of the sending State over all persons subject to the military law of that State;
 - (b) the authorities of the receiving State shall have jurisdiction over the members of a force or civilian component and their dependents with respect to offences committed within the territory of the receiving State and punishable by the law of that State.
2. (a) The military authorities of the sending State shall have the right to exercise exclusive jurisdiction over persons subject to the military law of that State with respect to offences, including offences relating to its security, punishable by the law of the sending State, but not by the law of the receiving State.
 - (b) The authorities of the receiving State shall have the right

to exercise exclusive jurisdiction over members of a force or civilian component and their dependents with respect to offences, including offences relating to the security of that State, punishable by its law but not by the law of the sending State.

- (c) For the purposes of this paragraph and of paragraph 3 of this Article a security offence against a State shall include
 - (i) treason against the State;
 - (ii) sabotage, espionage or violation of any law relating to official secrets of that State or secrets relating to the national defence of that State.

3. In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:

- (a) The military authorities of the sending State shall have the primary right to exercise jurisdiction over a member of a force or of a civilian component in relation to
 - (i) offences solely against the property or security of that State, or offences solely against the person or property of another member of the force or civilian component of that State or of a dependent;
 - (ii) offences arising out of any act or omission done in the performance of official duty.
- (b) In the case of any other offence the authorities of the receiving State shall have the primary right to exercise jurisdiction.
- (c) If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other State considers such waiver to be of particular importance.

4. The foregoing provisions of this Article shall not imply any right for the military authorities of the sending State to exercise jurisdiction over persons who are nationals of or ordinarily resident in the receiving State, unless they are members of the force of the sending State.

- 5. (a) The authorities of the receiving and sending States shall assist each other in the arrest of members of a force or civilian component or their dependents in the territory of the receiving State and in handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.

- (b) The authorities of the receiving State shall notify promptly the military authorities of the sending State of the arrest of any member of a force or civilian component or a dependent.
 - (c) The custody of an accused member of a force or civilian component over whom the receiving State is to exercise jurisdiction shall, if he is in the hands of the sending State, remain with that State until he is charged by the receiving State.
6. (a) The authorities of the receiving and sending States shall assist each other in the carrying out of all necessary investigations into offences, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offence. The handing over of such objects may, however, be made subject to their return within the time specified by the authority delivering them.
- (b) The authorities of the Contracting Parties shall notify one another of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.
7. (a) A death sentence shall not be carried out in the receiving State by the authorities of the sending State if the legislation of the receiving State does not provide for such punishment in a similar case.
- (b) The authorities of the receiving State shall give sympathetic consideration to a request from the authorities of the sending State for assistance in carrying out a sentence of imprisonment pronounced by the authorities of the sending State under the provisions of this Article within the territory of the receiving State.

8. Where an accused has been tried in accordance with the provisions of this Article by the authorities of one Contracting Party and has been acquitted, or has been convicted and is serving, or has served, his sentence or has been pardoned, he may not be tried again for the same offence within the same territory by the authorities of another Contracting Party. However, nothing in this paragraph shall prevent the military authorities of the sending State from trying a member of its force for any violation of rules of discipline arising from an act or omission which constituted an offence for which he was tried by the authorities of another Contracting Party.

9. Whenever a member of a force or civilian component or a dependent is prosecuted under the jurisdiction of a receiving State he shall be entitled—

- (a) to a prompt and speedy trial;
 - (b) to be informed, in advance of trial, of the specific charge or charges made against him;
 - (c) to be confronted with the witnesses against him;
 - (d) to have compulsory process for obtaining witnesses in his favour, if they are within the jurisdiction of the receiving State;
 - (e) to have legal representation of his own choice for his defence or to have free or assisted legal representation under the conditions prevailing for the time being in the receiving State;
 - (f) if he considers it necessary, to have the services of a competent interpreter; and
 - (g) to communicate with a representative of the Government of the sending State and, when the rules of the court permit, to have such a representative present at his trial.
10. (a) Regularly constituted military units or formations of a force shall have the right to police any camps, establishments or other premises which they occupy as the result of an agreement with the receiving State. The military police of the force may take all appropriate measures to ensure the maintenance of order and security on such premises.
- (b) Outside these premises, such military police shall be employed only subject to arrangements with the authorities of the receiving State and in liaison with those authorities, and in so far as such employment is necessary to maintain discipline and order among the members of the force.
11. Each Contracting Party shall seek such legislation as it deems necessary to ensure the adequate security and protection within its territory of installations, equipment, property, records and official information of other Contracting Parties, and the punishment of persons who may contravene laws enacted for that purpose.

ARTICLE VIII

1. Each Contracting Party waives all its claims against any other Contracting Party for damage to any property owned by it and used by its land, sea or air armed services, if such damage—
- (i) was caused by a member or an employee of the armed services of the other Contracting Party in the execution of his duties in connexion with the operation of the North Atlantic Treaty; or
 - (ii) arose from the use of any vehicle, vessel or aircraft owned by the other Contracting Party and used by its armed

services, provided either that the vehicle, vessel or aircraft causing the damage was being used in connexion with the operation of the North Atlantic Treaty, or that the damage was caused to property being so used.

Claims for maritime salvage by one Contracting Party against any other Contracting Party shall be waived, provided that the vessel or cargo salvaged was owned by a Contracting Party and being used by its armed services in connexion with the operation of the North Atlantic Treaty.

2. (a) In the case of damage caused or arising as stated in paragraph 1 to other property owned by a Contracting Party and located in its territory, the issue of the liability of any other Contracting Party shall be determined and the amount of liability shall be assessed, unless the Contracting Parties concerned agree otherwise, by a sole arbitrator selected in accordance with sub-paragraph (b) of this paragraph. The arbitrator shall also decide any counter-claims arising out of the same incident.

(b) The arbitrator referred to in sub-paragraph (a) above shall be selected by agreement between the Contracting Parties concerned from amongst the nationals of the receiving State who hold or have held high judicial office. If the Contracting Parties concerned are unable, within two months, to agree upon the arbitrator, either may request the Chairman of the North Atlantic Council Deputies to select a person with the aforesaid qualifications.

(c) Any decision taken by the arbitrator shall be binding and conclusive upon the Contracting Parties.

(d) The amount of any compensation awarded by the arbitrator shall be distributed in accordance with the provisions of paragraph 5(e) (i), (ii) and (iii) of this Article.

(e) The compensation of the arbitrator shall be fixed by agreement between the Contracting Parties concerned and shall, together with the necessary expenses incidental to the performance of his duties, be defrayed in equal proportions by them.

(f) Nevertheless, each Contracting Party waives its claim in any such case where the damage is less than:—

Belgium : B.fr. 70,000.

Canada : \$1,460.

Denmark : Kr. 9,670.

France : F.fr. 490,000.

Iceland : Kr. 22,800.

Italy : Li. 850,000.

Luxembourg : L.fr. 70,000.

Netherlands : Fl. 5,320.

Norway : Kr. 10,000.

Portugal : Es. 40,250.

United Kingdom : £ 500.

United States : \$1,400.

Any other Contracting Party whose property has been damaged in the same incident shall also waive its claim up to the above amount. In the case of considerable variation in the rates of exchange between these currencies the Contracting Parties shall agree on the appropriate adjustments of these amounts.³

3. For the purposes of paragraphs 1 and 2 of this Article the expression "owned by a Contracting Party" in the case of a vessel includes a vessel on bare boat charter to that Contracting Party or requisitioned by it on bare boat terms or seized by it in prize (except to the extent that the risk of loss or liability is borne by some person other than such Contracting Party).

4. Each Contracting Party waives all its claims against any other Contracting Party for injury or death suffered by any member of its armed services while such member was engaged in the performance of his official duties.

5. Claims (other than contractual claims and those to which paragraphs 6 or 7 of this Article apply) arising out of acts or omissions of members of a force or civilian component done in the performance of official duty, or out of any other act, omission or occurrence for which a force or civilian component is legally responsible, and causing damage in the territory of the receiving State to third parties, other than any of the Contracting Parties, shall be dealt with by the receiving State in accordance with the following provisions:—

- (a) Claims shall be filed, considered and settled or adjudicated in accordance with the laws and regulations of the receiving State with respect to claims arising from the activities of its own armed forces.
- (b) The receiving State may settle any such claims, and payment of the amount agreed upon or determined by adjudication shall be made by the receiving State in its own currency.
- (c) Such payment, whether made pursuant to a settlement or to adjudication of the case by a competent tribunal of the receiving State, or the final adjudication by such a tribunal denying payment, shall be binding and conclusive upon the Contracting Parties.
- (d) Every claim paid by the receiving State shall be communicated to the sending States concerned together with full

³ The North Atlantic Council, in approving the accession of Greece and Turkey to the NATO Status of Forces Agreement, recommended that the two countries should, when depositing their instruments of accession, waive claims under Article VIII, par. 2(f), as follows: Drs. 21,000,000 (Greece) ; T.L. 3,9000 (Turkey). Draft Resolution, C-M(52) 63(F), approved by the Council on 20 August 1952 (C-R(52) 18, par. 3).

particulars and a proposed distribution in conformity with sub-paragraphs (e) (i), (ii) and (iii) below. In default of a reply within two months, the proposed distribution shall be regarded as accepted.

- (e) The cost incurred in satisfying claims pursuant to the preceding sub-paragraphs and paragraph 2 of this Article shall be distributed between the Contracting Parties, as follows:—
 - (i) Where one sending State alone is responsible, the amount awarded or adjudged shall be distributed in the proportion of 25 per cent. chargeable to the receiving State and 75 per cent. chargeable to the sending State.
 - (ii) Where more than one State is responsible for the damage, the amount awarded or adjudged shall be distributed equally among them: however, if the receiving State is not one of the States responsible, its contribution shall be half that of each of the sending States.
 - (iii) Where the damage was caused by the armed services of the Contracting Parties and it is not possible to attribute it specifically to one or more of those armed services, the amount awarded or adjudged shall be distributed equally among the Contracting Parties concerned: however, if the receiving State is not one of the States by whose armed services the damage was caused, its contribution shall be half that of each of the sending States concerned.
 - (iv) Every half-year, a statement of the sums paid by the receiving State in the course of the half-yearly period in respect of every case regarding which the proposed distribution on a percentage basis has been accepted, shall be sent to the sending States concerned, together with a request for reimbursement. Such reimbursement shall be made within the shortest possible time, in the currency of the receiving State.
- (f) In cases where the application of the provisions of sub-paragraphs (b) and (e) of this paragraph would cause a Contracting Party serious hardship, it may request the North Atlantic Council to arrange a settlement of a different nature.
- (g) A member of a force or civilian component shall not be subject to any proceedings for the enforcement of any judgment given against him in the receiving State in a matter arising from the performance of his official duties.
- (h) Except in so far as sub-paragraph (e) of this paragraph

applies to claims covered by paragraph 2 of this Article, the provisions of this paragraph shall not apply to any claim arising out of or in connexion with the navigation or operation of a ship or the loading, carriage, or discharge of a cargo, other than claims for death or personal injury to which paragraph 4 of this Article does not apply.

6. Claims against members of a force or civilian component arising out of tortious acts or omissions in the receiving State not done in the performance of official duty shall be dealt with in the following manner:—

- (a) The authorities of the receiving State shall consider the claim and assess compensation to the claimant in a fair and just manner, taking into account all the circumstances of the case, including the conduct of the injured person, and shall prepare a report on the matter.
- (b) The report shall be delivered to the authorities of the sending State, who shall then decide without delay whether they will offer an *ex gratia* payment, and, if so, of what amount.
- (c) If an offer of *ex gratia* payment is made, and accepted by the claimant in full satisfaction of his claim, the authorities of the sending State shall make the payment themselves and inform the authorities of the receiving State of their decision and of the sum paid.
- (d) Nothing in this paragraph shall affect the jurisdiction of the courts of the receiving State to entertain an action against a member of a force or of a civilian component unless and until there has been payment in full satisfaction of the claim.

7. Claims arising out of the unauthorised use of any vehicle of the armed services of a sending State shall be dealt with in accordance with paragraph 6 of this Article, except in so far as the force or civilian component is legally responsible.

8. If a dispute arises as to whether a tortious act or omission of a member of a force or civilian component was done in the performance of official duty or as to whether the use of any vehicle of the armed services of a sending State was unauthorised, the question shall be submitted to an arbitrator appointed in accordance with paragraph 2(b) of this Article, whose decision on this point shall be final and conclusive.

9. The sending State shall not claim immunity from the jurisdiction of the courts of the receiving State for members of a force or civilian component in respect of the civil jurisdiction of the courts of

the receiving State except to the extent provided in paragraph 5(g) of this Article.

10. The authorities of the sending State and of the receiving State shall co-operate in the procurement of evidence for a fair hearing and disposal of claims in regard to which the Contracting Parties are concerned.

ARTICLE IX

1. Members of a force or of a civilian component and their dependents may purchase locally goods necessary for their own consumption, and such services as they need, under the same conditions as the nationals of the receiving State.

2. Goods which are required from local sources for the subsistence of a force or civilian component shall normally be purchased through the authorities which purchase such goods for the armed services of the receiving State. In order to avoid such purchases having any adverse effect on the economy of the receiving State, the component authorities of that State shall indicate, when necessary, any articles the purchase of which should be restricted or forbidden.

3. Subject to agreements already in force or which may hereafter be made between the authorised representatives of the sending and receiving States, the authorities of the receiving State shall assume sole responsibility for making suitable arrangements to make available to a force or civilian component the buildings and grounds which it requires, as well as facilities and services connected therewith. These agreements and arrangements shall be, as far as possible, in accordance with the regulations governing the accommodation and billeting of similar personnel of the receiving State. In the absence of a specific contract to the contrary, the laws of the receiving State shall determine the rights and obligations arising out of the occupation or use of the buildings, grounds, facilities or services.

4. Local civilian labour requirements of a force or civilian component shall be satisfied in the same way as the comparable requirements of the receiving State and with the assistance of the authorities of the receiving State through the employment exchanges. The conditions of employment and work, in particular wages, supplementary payments and conditions for the protection of workers, shall be those laid down by the legislation of the receiving State. Such civilian workers employed by a force or civilian component shall not be regarded for any purpose as being members of that force or civilian component.

5. When a force or civilian component has at the place where it is stationed inadequate medical or dental facilities, its members and

their dependents may receive medical and dental care, including hospitalisation, under the same conditions as comparable personnel of the receiving State.

6. The receiving State shall give the most favourable consideration to requests for the grant to members of a force or of a civilian component of travelling facilities and concessions with regard to fares. These facilities and concessions will be the subject of special arrangements to be made between the Governments concerned.

7. Subject to any general or particular financial arrangements between the Contracting Parties, payment in local currency for goods, accommodation and services furnished under paragraphs 2, 3, 4 and, if necessary, 5 and 6, of this Article shall be made promptly by the authorities of the force.

8. Neither a force, nor a civilian component, nor the members thereof, nor their dependents, shall by reason of this Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the receiving State.

ARTICLE X

1. Where the legal incidence of any form of taxation in the receiving State depends upon residence or domicile, periods during which a member of a force or civilian component is in the territory of that State by reason solely of his being a member of such force or civilian component shall not be considered as periods of residence therein, or as creating a change of residence or domicile, for the purposes of such taxation. Members of a force or civilian component shall be exempt from taxation in the receiving State on the salary and emoluments paid to them as such members by the sending State or on any tangible movable property the presence of which in the receiving State is due solely to their temporary presence there.

2. Nothing in this Article shall prevent taxation of a member of a force or civilian component with respect to any profitable enterprise, other than his employment as such member, in which he may engage in the receiving State, and, except as regards his salary and emoluments and the tangible movable property referred to in paragraph 1, nothing in this Article shall prevent taxation to which, even if regarded as having his residence or domicile outside the territory of the receiving State, such a member is liable under the law of that State.

3. Nothing in this Article shall apply to "duty" as defined in paragraph 12 of Article XI.

4. For the purposes of this Article the term "member of a force" shall not include any person who is a national of the receiving State.

ARTICLE XI

1. Save as provided expressly to the contrary in this Agreement, members of a force and of a civilian component as well as their dependents shall be subject to the laws and regulations administered by the customs authorities of the receiving State. In particular the customs authorities of the receiving State shall have the right, under the general conditions laid down by the laws and regulations of the receiving State, to search members of a force or civilian component and their dependents and to examine their luggage and vehicles, and to seize articles pursuant to such laws and regulations.

2. (a) The temporary importation and the re-exportation of service vehicles of a force or civilian component under their own power shall be authorised free of duty on presentation of a triptyque in the form shown in the Appendix to this Agreement.

(b) The temporary importation of such vehicles not under their own power shall be governed by paragraph 4 of this Article and the re-exportation thereof by paragraph 8.

(c) Service vehicles of a force or civilian component shall be exempt from any tax payable in respect of the use of vehicles on the roads.

3. Official documents under official seal shall not be subject to customs inspection. Couriers, whatever their status, carrying these documents must be in possession of an individual movement order, issued in accordance with paragraph 2(b) of Article III. This movement order shall show the number of despatches carried and certify that they contain only official documents.

4. A force may import free of duty the equipment for the force and reasonable quantities of provisions, supplies and other goods for the exclusive use of the force and, in cases where such use is permitted by the receiving State, its civilian component and dependents. This duty-free importation shall be subject to the deposit, at the customs office for the place of entry, together with such customs documents as shall be agreed, of a certificate in a form agreed between the receiving State and the sending State signed by a person authorised by the sending State for that purpose. The designation of the person authorised to sign the certificates as well as specimens of the signatures and stamps to be used, shall be sent to the customs administration of the receiving State.

5. A member of a force or civilian component may, at the time of his first arrival to take up service in the receiving State or at the time of the first arrival of any dependent to join him, import his personal effects and furniture free of duty for the term of such service.

6. Members of a force or civilian component may import temporarily free of duty their private motor vehicles for the personal use of themselves and their dependents. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

7. Imports made by the authorities of a force other than for the exclusive use of that force and its civilian component, and imports, other than those dealt with in paragraphs 5 and 6 of this Article, effected by members of a force or civilian component are not, by reason of this Article, entitled to any exemption from duty or other conditions.

8. Goods which have been imported duty-free under paragraphs 2(b), 4, 5 or 6 above—

(a) may be re-exported freely, provided that, in the case of goods imported under paragraph 4, a certificate, issued in accordance with that paragraph, is presented to the customs office: the customs authorities, however, may verify that the goods re-exported are as described in the certificate, if any, and have in fact been imported under the conditions of paragraphs 2(b), 4, 5 or 6 as the case may be;

(b) shall not normally be disposed of in the receiving State by way of either sale or gift: however, in particular cases such disposal may be authorised on conditions imposed by the authorities concerned of the receiving State (for instance, on payment of duty and tax and compliance with the requirements of the controls of trade and exchange).

9. Goods purchased in the receiving State shall be exported therefrom only in accordance with the regulations in force in the receiving State.

10. Special arrangements for crossing frontiers shall be granted by the customs authorities to regularly constituted units or formations, provided that the customs authorities concerned have been duly notified in advance.

11. Special arrangements shall be made by the receiving State so that fuel, oil and lubricants for use in service vehicles, aircraft and vessels of a force or civilian component, may be delivered free of all duties and taxes.

12. In paragraphs 1–10 of this Article—

“duty” means customs duties and all other duties and taxes payable on importation or exportation, as the case may be, except dues and taxes which are no more than charges for services rendered;

“importation” includes withdrawal from customs warehouses or

continuous customs custody, provided that the goods concerned have not been grown, produced or manufactured in the receiving State.

13. The provisions of this Article shall apply to the goods concerned not only when they are imported into or exported from the receiving State, but also when they are in transit through the territory of a Contracting Party, and for this purpose the expression "receiving State" in this Article shall be regarded as including any Contracting Party through whose territory the goods are passing in transit.

ARTICLE XII

1. The customs or fiscal authorities of the receiving State may, as a condition of the grant of any customs or fiscal exemption or concession provided for in this Agreement, require such conditions to be observed as they may deem necessary to prevent abuse.

2. These authorities may refuse any exemption provided for by this Agreement in respect of the importation into the receiving State of articles grown, produced or manufactured in that State which have been exported therefrom without payment of, or upon repayment of, taxes or duties which would have been chargeable but for such exportation. Goods removed from a customs warehouse shall be deemed to be imported if they were regarded as having been exported by reason of being deposited in the warehouse.

ARTICLE XIII

1. In order to prevent offences against customs and fiscal laws and regulations, the authorities of the receiving and of the sending States shall assist each other in the conduct of enquiries and the collection of evidence.

2. The authorities of a force shall render all assistance within their power to ensure that articles liable to seizure by, or on behalf of, the customs or fiscal authorities of the receiving State are handed to those authorities.

3. The authorities of a force shall render all assistance within their power to ensure the payment of duties, taxes and penalties payable by members of the force or civilian component or their dependents.

4. Service vehicles and articles belonging to a force or to its civilian component, and not to a member of such force or civilian component, seized by the authorities of the receiving State in connexion with an offence against its customs or fiscal laws or regulations shall be handed over to the appropriate authorities of the force concerned.

ARTICLE XIV

1. A force, a civilian component and the members thereof, as well as their dependents, shall remain subject to the foreign exchange regulations of the sending State and shall also be subject to the regulations of the receiving State.

2. The foreign exchange authorities of the sending and the receiving States may issue special regulations applicable to a force or civilian component or the members thereof as well as to their dependents.

ARTICLE XV

1. Subject to paragraph 2 of this Article, this Agreement shall remain in force in the event of hostilities to which the North Atlantic Treaty applies, except that the provisions for settling claims in paragraphs 2 and 5 of Article VIII shall not apply to war damage, and that the provisions of the Agreement, and, in particular of Articles III and VII, shall immediately be reviewed by the Contracting Parties concerned, who may agree to such modifications as they may consider desirable regarding the application of the Agreement between them.

2. In the event of such hostilities, each of the Contracting Parties shall have the right, by giving 60 days' notice to the other Contracting Parties, to suspend the application of any of the provisions of this Agreement so far as it is concerned. If this right is exercised, the Contracting Parties shall immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

ARTICLE XVI

All differences between the Contracting Parties relating to the interpretation or application of this Agreement shall be settled by negotiation between them without recourse to any outside jurisdiction. Except where express provision is made to the contrary in this Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council.

ARTICLE XVII

Any Contracting Party may at any time request the revision of any Article of this Agreement. The request shall be addressed to the North Atlantic Council.

ARTICLE XVIII

1. The present Agreement shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Govern-

ment of the United States of America, which shall notify each signatory State of the date of deposit thereof.

2. Thirty days after four signatory States have deposited their instruments of ratification the present Agreement shall come into force between them. It shall come into force for each other signatory State thirty days after the deposit of its instrument of ratification.

3. After it has come into force, the present Agreement shall, subject to the approval of the North Atlantic Council and to such conditions as it may decide, be open to accession on behalf of any State which accedes to the North Atlantic Treaty. Accession shall be effected by the deposit of an instrument of accession with the Government of the United States of America, which shall notify each signatory and acceding State of the date of deposit thereof. In respect of any State on behalf of which an instrument of accession is deposited, the present Agreement shall come into force thirty days after the date of the deposit of such instrument.

ARTICLE XIX

1. The present Agreement may be denounced by any Contracting Party after the expiration of a period of four years from the date on which the Agreement comes into force.

2. The denunciation of the Agreement by any Contracting Party shall be effected by a written notification addressed by that Contracting Party to the Government of the United States of America which shall notify all the other Contracting Parties of each such notification and the date of receipt thereof.

3. The denunciation shall take effect one year after the receipt of the notification by the Government of the United States of America. After the expiration of this period of one year, the Agreement shall cease to be in force as regards the Contracting Party which denounces it, but shall continue in force for the remaining Contracting Parties.

ARTICLE XX

1. Subject to the provisions of paragraphs 2 and 3 of this Article, the present Agreement shall apply only to the metropolitan territory of a Contracting Party.

2. Any State may, however, at the time of the deposit of its instrument of ratification or accession or at any time thereafter, declare by notification given to the Government of the United States of America that the present Agreement shall extend (subject, if the State making the declaration considers it to be necessary, to the conclusion of a special agreement between that State and each of the

sending States concerned), to all or any of the territories for whose international relations it is responsible in the North Atlantic Treaty area. The present Agreement shall then extend to the territory or territories named therein thirty days after the receipt by the Government of the United States of the notification, or thirty days after the conclusion of the special agreements if required, or when it has come into force under Article XVIII, whichever is the later.

3. A State which has made a declaration under paragraph 2 of this Article extending the present Agreement to any territory for whose international relations it is responsible may denounce the Agreement separately in respect of that territory in accordance with the provisions of Article XIX.

In witness whereof the undersigned Plenipotentiaries have signed the present Agreement.

Done in London this nineteenth day of June, 1951, in the English and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

[There follow the signatures on behalf of the twelve original NATO countries—Belgium, Canada, Denmark, France, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal,⁴ United Kingdom, United States.⁵]

⁴ Portugal signed the Agreement with the following reservation: "The Agreement is only applicable to the territory of Continental Portugal, with the exclusion of the Adjacent Islands and the Overseas Provinces."

⁵ The United States signed the Agreement without reservation. It was ratified, however, subject to the following statement, which was made by the Senate in advising and consenting to ratification:

It is the understanding of the Senate, which understanding inheres in its advice and consent to the ratification of the Agreement, that nothing in the Agreement diminishes, abridges, or alters the right of the United States of America to safeguard its own security by excluding or removing persons whose presence in the United States is deemed prejudicial to its safety or security, and that no person whose presence in the United States is deemed prejudicial to its safety or security shall be permitted to enter or remain in the United States.

In giving its advice and consent to ratification, it is the sense of the Senate that:

1. The criminal jurisdiction provisions of Article VII do not constitute a precedent for future agreements.
2. Where a person subject to the military jurisdiction of the United States is to be tried by the authorities of a receiving State under the treaty, the Commanding Officer of the Armed Forces of the United States in such

State shall examine the laws of such State with particular reference to the procedural safeguards contained in the Constitution of the United States;

3. If, in the opinion of such commanding officer, under all the circumstances of the case, there is danger that the accused will not be protected because of the absence or denial of constitutional rights he would enjoy in the United States, the commanding officer shall request the authorities of the receiving State to waive jurisdiction in accordance with the provisions of paragraph 3(c) of Article VII (which requires the receiving State to give "sympathetic consideration" to such request) and if such authorities refuse to waive jurisdiction, the commanding officer shall request the Department of State to press such request through diplomatic channels and notification shall be given by the Executive Branch to the Armed Services Committees of the Senate and House of Representatives;

4. A representative of the United States to be appointed by the Chief of Diplomatic Mission with the advice of the senior United States military representative in the receiving State will attend the trial of any such person by the authorities of a receiving State under the agreement, and any failure to comply with the provisions of paragraph 9 of Article VII of the agreement shall be reported to the commanding officer of the armed forces of the United States in such State who shall then request the Department of State to take appropriate action to protect the rights of the accused, and notification shall be given by the Executive Branch to the Armed Services Committees of the Senate and House of Representatives.

APPENDIX

Country Ministry or Service

TRIPTYQUE ⁶

Valid from To

for temporary importation to
of the following service vehicle

Type

Registration Number	Engine Number
---------------------	---------------

Spare tyres

Fixed
Communication Equipment

Name and signature of the holder of the triptyque

Date of issue

By order of

TEMPORARY EXITS AND ENTRIES

Name of Port or Customs Station	Date	Signature and Stamp of Customs Officer
Exit		
Entry		
Exit		
Entry		
Exit		
Entry		
Exit		
Entry		

⁶ This document shall be in the language of the sending State and in the English and French languages. [Footnote in original text].

B. AGREEMENT ON THE STATUS OF THE NORTH ATLANTIC TREATY ORGANISATION, NATIONAL REPRESENTATIVES AND INTERNATIONAL STAFF ¹

The States signatory to the present Agreement,

Considering that for the exercise of the functions and the fulfilment of their purposes it is necessary that the North Atlantic Treaty Organisation, its international staff and the representatives of Member States attending meetings thereof should have the status set out hereunder,

Have agreed as follows:

Part I.—General

ARTICLE 1

In the present Agreement,

- (a) “the Organisation” means the North Atlantic Treaty Organisation consisting of the Council and its subsidiary bodies;
- (b) “the Council” means the Council established under Article 9 of the North Atlantic Treaty and the Council Deputies;
- (c) “subsidiary bodies” means any organ, committee or service established by the Council or under its authority, except those to which, in accordance with Article 2, this Agreement does not apply;
- (d) “Chairman of the Council Deputies” includes, in his absence, the Vice-Chairman acting for him.

ARTICLE 2

The present Agreement shall not apply to any military headquarters established in pursuance of the North Atlantic Treaty nor, unless the Council decides otherwise, to any other military bodies.

ARTICLE 3

The Organisation and Member States shall co-operate at all times to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connexion with the immunities and privileges set out in the present Agreement. If any Member State considers that there has been an abuse of any immunity or privilege conferred by this Agreement,

¹ TIAS 2992; 5 UST 1087; 200 UNTS 3.

consultations shall be held between that State and the Organisation, or between the States concerned, to determine whether any such abuse has occurred, and, if so, to attempt to ensure that no repetition occurs. Notwithstanding the foregoing or any other provisions of this Agreement, a Member State which considers that any person has abused his privilege of residence or any other privilege or immunity granted to him under this Agreement may require him to leave its territory.

Part II.—The Organisation

ARTICLE 4

The Organisation shall possess juridical personality; it shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings.

ARTICLE 5

The Organisation, its property and assets, wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case the Chairman of the Council Deputies acting on behalf of the Organisation, may expressly authorise the waiver of this immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution or detention of property.

ARTICLE 6

The premises of the Organisation shall be inviolable. Its property and assets, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of interference.

ARTICLE 7

The archives of the Organisation and all documents belonging to it or held by it shall be inviolable, wherever located.

ARTICLE 8

1. Without being restricted by financial controls, regulations or moratoria of any kind,

- (a) the Organisation may hold currency of any kind and operate accounts in any currency;
- (b) the Organisation may freely transfer its funds from one

country to another or within any country and convert any currency held by it into any other currency at the most favourable official rate of exchange for a sale or purchase as the case may be.

2. In exercising its rights under paragraph 1 above, the Organisation shall pay due regard to any representations made by any Member State and shall give effect to such representations in so far as it is practicable to do so.

ARTICLE 9

The Organisation, its assets, income and other property shall be exempt:

- (a) from all direct taxes; the Organisation will not, however, claim exemption from rates, taxes or dues which are no more than charges for public utility services;
- (b) from all customs duties and quantitative restrictions on imports and exports in respect of articles imported or exported by the Organisation for its official use; articles imported under such exemption shall not be disposed of, by way either of sale or gift, in the country into which they are imported except under conditions approved by the Government of that country;
- (c) from all customs duties and quantitative restrictions on imports and exports in respect of its publications.

ARTICLE 10

While the Organisation will not as a general rule claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless, when the Organisation is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Member States will whenever possible make the appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE 11

1. No censorship shall be applied to the official correspondence and other official communications of the Organisation.

2. The Organisation shall have the right to use codes and to despatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

3. Nothing in this Article shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a Member State and the Council acting on behalf of the Organisation.

Part III.—Representatives of Member States

ARTICLE 12

Every person designated by a Member State as its principal permanent representative to the Organisation in the territory of another Member State, and such members of his official staff resident in that territory as may be agreed between the State which has designated them and the Organisation and between the Organisation and the State in which they will be resident, shall enjoy the immunities and privileges accorded to diplomatic representatives and their official staff of comparable rank.

ARTICLE 13

1. Any representative of a Member State to the Council or any of the subsidiary bodies who is not covered by Article 12 shall, while present in the territory of another Member State for the discharge of his duties, enjoy the following privileges and immunities:

- (a) the same immunity from personal arrest or detention as that accorded to diplomatic personnel of comparable rank;
- (b) in respect of words spoken or written and of acts done by him in his official capacity, immunity from legal process;
- (c) inviolability for all papers and documents;
- (d) the right to use codes and to receive and send papers or correspondence by courier or in sealed bags;
- (e) the same exemption in respect of himself and his spouse from immigration restrictions, aliens registration and national service obligations as that accorded to diplomatic personnel of comparable rank;
- (f) the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic personnel of comparable rank;
- (g) the same immunities and facilities in respect of his personal baggage as are accorded to diplomatic personnel of comparable rank;
- (h) the right to import free of duty his furniture and effects at the time of first arrival to take up his post in the country in question, and, on the termination of his functions in that country, to re-export such furniture and effects free of duty,

subject in either case to such conditions as the Government of the country in which the right is exercised may deem necessary;

- (i) the right to import temporarily free of duty his private motor vehicle for his own personal use and subsequently to re-export such vehicle free of duty, subject in either case to such conditions as the Government of the country concerned may deem necessary.

2. Where the legal incidence of any form of taxation depends upon residence, a period during which a representative to whom this Article applies is present in the territory of another Member State for the discharge of his duties shall not be considered as a period of residence. In particular, he shall be exempt from taxation on his official salary and emoluments during such periods of duty.

3. In this Article "representative" shall be deemed to include all representatives, advisers and technical experts of delegations. Each Member State shall communicate to the other Member States concerned, if they so request, the names of its representatives to whom this Article applies and the probable duration of their stay in the territories of such other Member States.

ARTICLE 14

Official clerical staff accompanying a representative of a Member State who are not covered by Articles 12 or 13 shall, while present in the territory of another Member State for the discharge of their duties, be accorded the privileges and immunities set out in paragraph 1 (b), (c), (e), (f), (h) and (i) and paragraph 2 of Article 13.

ARTICLE 15

Privileges and immunities are accorded to the representatives of Member States and their staffs not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the North Atlantic Treaty. Consequently, a Member State not only has the right, but is under a duty to waive the immunity of its representatives and members of their staffs in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the purposes for which the immunity is accorded.

ARTICLE 16

The provisions of Articles 12 to 14 above shall not require any State to grant any of the privileges or immunities referred to therein

to any person who is its national or to any person as its representative or as a member of the staff of such representative.

Part IV.—Internaitonal Staff and Experts on Missions for the Organisation

ARTICLE 17

The categories of officials of the Organisation to which Articles 18 to 20 apply shall be agreed between the Chairman of the Council Deputies and each of the Member States concerned. The Chairman of the Council Deputies shall communicate to the Member States the names of the officials included in these categories.

ARTICLE 18

Officials of the Organisation agreed upon under Article 17 shall:

- (a) be immune from legal process in respect of words spoken or written and of acts done by them in their official capacity and within the limits of their authority;
- (b) be granted, together with their spouses and members of their immediate families residing with and dependent on them, the same immunities from immigration restrictions and aliens' registration as is accorded to diplomatic personnel of comparable rank;
- (c) be accorded the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic personnel of comparable rank;
- (d) be given, together with their spouses and members of their immediate families residing with and dependent on them, the same repatriation facilities in time of international crisis as are accorded to diplomatic personnel of comparable rank;
- (e) have the right to import free of duty their furniture and effects at the time of first arrival to take up their post in the country in question, and, on the termination of their functions in that country, to re-export such furniture and effects free of duty, subject in either case to such conditions as the Government of the country in which the right is exercised may deem necessary;
- (f) have the right to import temporarily free of duty their private motor vehicles for their own personal use and subsequently to re-export such vehicles free of duty, subject in either case to such conditions as the Government of the country concerned may deem necessary.

ARTICLE 19

Officials of the Organisation agreed under Article 17 shall be exempt from taxation on the salaries and emoluments paid to them by the Organisation in their capacity as such officials. Any Member State may, however, conclude an arrangement with the Council acting on behalf of the Organisation whereby such Member State will employ and assign to the Organisation all of its nationals (except, if such Member State so desires, any not ordinarily resident within its territory) who are to serve on the international staff of the Organisation and pay the salaries and emoluments of such persons from its own funds at a scale fixed by it. The salaries and emoluments so paid may be taxed by such Member State but shall be exempt from taxation by any other Member State. If such an arrangement is entered into by any Member State and is subsequently modified or terminated, Member States shall no longer be bound under the first sentence of this Article to exempt from taxation the salaries and emoluments paid to their nationals.

ARTICLE 20

In addition to the immunities and privileges specified in Articles 18 and 19, the Executive Secretary of the Organisation, the Co-ordinator of North Atlantic Defence Production, and such other permanent officials of similar rank as may be agreed between the Chairman of the Council Deputies and the Governments of Member States, shall be accorded the privileges and immunities normally accorded to diplomatic personnel of comparable rank.

ARTICLE 21

1. Experts (other than officials coming within the scope of Articles 18 to 20) employed on missions on behalf of the Organisation shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions while present in the territory of a Member State for the discharge of their duties:

- (a) immunity from personal arrest or detention and from seizure of their personal baggage;
- (b) in respect of words spoken or written or acts done by them in the performance of their official functions for the Organisation, immunity from legal process;
- (c) the same facilities in respect of currency or exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign Governments on temporary official missions;

(d) inviolability for all papers and documents relating to the work on which they are engaged for the Organisation.

2. The Chairman of the Council Deputies shall communicate to the Member States concerned the names of any experts to whom this Article applies.

ARTICLE 22

Privileges and immunities are granted to officials and experts in the interests of the Organisation and not for the personal benefit of the individuals themselves. The Chairman of the Council Deputies shall have the right and the duty to waive the immunity of any official or expert in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organisation.

ARTICLE 23

The provisions of Articles 18, 20 and 21, above shall not require any State to grant any of the privileges or immunities referred to therein to any person who is its national, except:

- (a) immunity from legal process in respect of words spoken or written or acts done by him in the performance of his official functions for the Organisation;
- (b) inviolability for all papers and documents relating to the work on which he is engaged for the Organisation;
- (c) facilities in respect of currency or exchange restrictions so far as necessary for the effective exercise of his functions.

Part V.—Settlement of Disputes

ARTICLE 24

The Council shall make provision for appropriate modes of settlement of:

- (a) disputes arising out of contracts or other disputes of a private character to which the Organisation is a party;
- (b) disputes involving any official or expert of the Organisation to whom Part IV of this Agreement applies who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with the provisions of Article 22.

Part VI.—Supplementary Agreements

ARTICLE 25

The Council acting on behalf of the Organisation may conclude with any Member State or States supplementary agreements modify-

ing the provisions of the present Agreement, so far as that State or those States are concerned.

Part VII.—Final Provisions

ARTICLE 26

1. The present Agreement shall be open for signature by Member States of the Organisation and shall be subject to ratification. Instruments of ratification shall be deposited with the Government of the United States of America, which will notify all signatory States of each such deposit.

2. As soon as six signatory States have deposited their instruments of ratification, the present Agreement shall come into force in respect of those States. It shall come into force in respect of each other signatory State, on the date of the deposit of its instrument of ratification.

ARTICLE 27

The present Agreement may be denounced by any Contracting State by giving written notification of denunciation to the Government of the United States of America, which will notify all signatory States of each such notification. The denunciation shall take effect one year after the receipt of the notification by the Government of the United States of America.

In witness whereof the undersigned plenipotentiaries have signed the present Agreement.

Done in Ottawa this twentieth day of September, 1951, in French and in English, both texts being equally authoritative, in a single copy which shall be deposited in the archives of the Government of the United States of America which will transmit a certified copy to each of the signatory States.

[There follow the signatures on behalf of the twelve original NATO countries—Belgium, Canada, Denmark, France, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal,² United Kingdom, United States.]

² “Reserving the non-application of Article 6 in case of expropriation.”

C. PROTOCOL ON THE STATUS OF INTERNATIONAL MILITARY HEADQUARTERS SET UP PURSUANT TO THE NORTH ATLANTIC TREATY ¹

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949,²

Considering that international military Headquarters may be established in their territories, by separate arrangement, under the North Atlantic Treaty, and

Desiring to define the status of such Headquarters and of the personnel thereof within the North Atlantic Treaty area,

Have agreed to the present Protocol to the Agreement signed in London on 19th June, 1951, regarding the Status of their Forces:³

ARTICLE 1

In the present Protocol the expression

- (a) "the Agreement" means the Agreement signed in London on 19th June, 1951, by the Parties to the North Atlantic Treaty regarding the Status of their Forces;
- (b) "Supreme Headquarters" means Supreme Headquarters Allied Powers in Europe, Headquarters of the Supreme Allied Commander Atlantic and any equivalent international military Headquarters set up pursuant to the North Atlantic Treaty;
- (c) "Allied Headquarters" means any Supreme Headquarters and any international military Headquarters set up pursuant to the North Atlantic Treaty which is immediately subordinate to a Supreme Headquarters;
- (d) "North Atlantic Council" means the Council established by Article 9 of the North Atlantic Treaty or any of its subsidiary bodies authorised to act on its behalf.

ARTICLE 2

Subject to the following provisions of this Protocol, the Agreement shall apply to Allied Headquarters in the territory of a Party to the present Protocol in the North Atlantic Treaty area, and to the military and civilian personnel of such Headquarters and their depend-

¹ TIAS 2978; 5 UST 870; 200 UNTS 340. The final text was distributed, for information and record purposes, as C-M(52) 30(F) (omitted here), on 26 September 1952.

² 63 Stat., pt. 2, 2241; TIAS 1964; 34 UNTS 243.

³ TIAS 2846; 4 UST 1792; 199 UNTS 67.

ents included in the definitions in sub-paragraphs (a), (b) and (c) of paragraph 1 of Article 3 of this Protocol, when such personnel are present in any such territory in connection with their official duties or, in the case of dependents, the official duties of their spouse or parent.

ARTICLE 3

1. For the purpose of applying the Agreement to an Allied Headquarters the expressions "force," "civilian component" and "dependent," wherever they occur in the Agreement, shall have the meaning set out below:

- (a) "force" means the personnel attached to the Allied Headquarters who belong to the land, sea or air armed services of any Party to the North Atlantic Treaty;
- (b) "civilian component" means civilian personnel who are not stateless persons, nor nationals of any State which is not a Party to the Treaty, nor nationals of, nor ordinarily resident in the receiving State, and who are (i) attached to the Allied Headquarters and in the employ of an armed service of a Party to the North Atlantic Treaty or (ii) in such categories of civilian personnel in the employ of the Allied Headquarters as the North Atlantic Council shall decide;
- (c) "dependent" means the spouse of a member of a force or civilian component, as defined in sub-paragraphs (a) and (b) of this paragraph, or a child of such member depending on him or her for support.

2. An Allied Headquarters shall be considered to be a force for the purposes of Article II, paragraph 2 of Article V, paragraph 10 of Article VII, paragraphs 2, 3, 4, 7 and 8 of Article IX, and Article XIII, of the Agreement.

ARTICLE 4

The rights and obligations which the Agreement gives to or imposes upon the sending State or its authorities in respect of its forces or their civilian components or dependents shall, in respect of an Allied Headquarters and its personnel and their dependents to whom the Agreement applies in accordance with Article 2 of the present Protocol, be vested in or attach to the appropriate Supreme Headquarters and the authorities responsible under it, except that

- (a) the right which is given by Article VII of the Agreement to the military authorities of the sending State to exercise criminal and disciplinary jurisdiction shall be vested in the military authorities of the State, if any, to whose military law the person concerned is subject;

- (b) the obligations imposed upon the sending State or its authorities by Article II, paragraph 4 of Article III, paragraphs 5(a) and 6(a) of Article VII, paragraphs 9 and 10 of Article VIII, and Article XIII, of the Agreement, shall attach both to the Allied Headquarters and to any State whose armed service, or any member or employee of whose armed service, or the dependent of such member or employee, is concerned;
- (c) for the purposes of paragraphs 2(a) and 5 of Article III, and Article XIV, of the Agreement, the sending State shall be, in the case of members of a force and their dependents, the State to whose armed service the member belongs, or, in the case of members of a civilian component and their dependents, the State, if any, by whose armed service the member is employed;
- (d) the obligations imposed on the sending State by virtue of paragraphs 6 and 7 of Article VIII of the Agreement shall attach to the State to whose armed service the person belongs whose act or omission has given rise to the claim or, in the case of a member of a civilian component, to the State by whose armed service he is employed or, if there is no such State, to the Allied Headquarters of which the person concerned is a member.

Both the State, if any, to which obligations attach under this paragraph and the Allied Headquarters concerned shall have the rights of the sending State in connection with the appointment of an arbitrator under paragraph 8 of Article VIII.

ARTICLE 5

Every member of an Allied Headquarters shall have a personal identity card issued by the Headquarters showing names, date and place of birth, nationality, rank or grade, number (if any), photograph and period of validity. This card must be presented on demand.

ARTICLE 6

1. The obligations to waive claims imposed on the Contracting Parties by Article VIII of the Agreement shall attach both to the Allied Headquarters and to any Party to this Protocol concerned.

2. For the purposes of paragraphs 1 and 2 of Article VIII of the Agreement,

- (a) property owned by an Allied Headquarters or by a Party to this Protocol and used by an Allied Headquarters shall

be deemed to be property owned by a Contracting Party and used by its armed services;

- (b) damage caused by a member of a force or civilian component as defined in paragraph 1 of Article 3 of this Protocol or by any other employee of an Allied Headquarters shall be deemed to be damage caused by a member or employee of the armed services of a Contracting Party;
- (c) the definition of the expression "owned by a Contracting Party" in paragraph 3 of Article VIII shall apply in respect of an Allied Headquarters.

3. The claims to which paragraph 5 of Article VIII of the Agreement applies shall include claims (other than contractual claims and claims to which paragraphs 6 or 7 of that Article apply) arising out of acts or omissions of any employees of an Allied Headquarters, or out of any other act, omission or occurrence for which an Allied Headquarters is legally responsible, and causing damage in the territory of a receiving State to third parties, other than any of the Parties to this Protocol.

ARTICLE 7

1. The exemption from taxation accorded under Article X of the Agreement to members of a force or civilian component in respect of their salaries and emoluments shall apply, as regards personnel of an Allied Headquarters within the definitions in paragraphs 1(a) and (b) (i) of Article 3 of this Protocol, to salaries and emoluments paid to them as such personnel by the armed service to which they belong or by which they are employed, except that this paragraph shall not exempt any such member or employee from taxation imposed by a State of which he is a national.

2. Employees of an Allied Headquarters of categories agreed by the North Atlantic Council, shall be exempted from taxation on the salaries and emoluments paid to them by the Allied Headquarters in their capacity as such employees. Any Party to the present Protocol may, however, conclude an arrangement with the Allied Headquarters whereby such Party will employ and assign to the Allied Headquarters all of its nationals (except, if such Party so desires, any not ordinarily resident within its territory) who are to serve on the staff of the Allied Headquarters and pay the salaries and emoluments of such persons from its own funds, at a scale fixed by it. The salaries and emoluments so paid may be taxed by the Party concerned but shall be exempted from taxation by any other Party. If such an arrangement is entered into by any Party to the present Protocol and is subsequently modified or terminated, Parties to the present Pro-

tocol shall no longer be bound under the first sentence of this paragraph to exempt from taxation the salaries and emoluments paid to their nationals.

ARTICLE 8

1. For the purpose of facilitating the establishment, construction, maintenance and operation of Allied Headquarters, these Headquarters shall be relieved, so far as practicable, from duties and taxes, affecting expenditures by them in the interest of the common defense and for their official and exclusive benefit, and each Party to the present Protocol shall enter into negotiations with any Allied Headquarters operating in its territory for the purpose of concluding an agreement to give effect to this provision.

2. An Allied Headquarters shall have the rights granted to a force under Article XI of the Agreement subject to the same conditions.

3. The provisions in paragraphs 5 and 6 of Article XI of the Agreement shall not apply to nationals of the receiving States, unless such nationals belong to the armed services of a Party to this Protocol other than the receiving State.

4. The expression "duties and taxes" in this Article does not include charges for services rendered.

ARTICLE 9

Except in so far as the North Atlantic Council may decide otherwise,

- (a) any assets acquired from the international funds of an Allied Headquarters under its capital budget and no longer required by the Headquarters shall be disposed of under arrangements approved by the North Atlantic Council and the proceeds shall be distributed among or credited to the Parties to the North Atlantic Treaty in the proportions in which they have contributed to the capital costs of the Headquarters. The receiving State shall have the prior right to acquire any immovable property so disposed of in its territory, provided that it offers terms no less favourable than those offered by any third party;
- (b) any land, buildings or fixed installations provided for the use of an Allied Headquarters by the receiving State without charge to the Headquarters (other than a nominal charge) and no longer required by the Headquarters shall be handed back to the receiving State, and any increase or loss in the value of the property provided by the receiving State result-

ing from its use by the Headquarters shall be determined by the North Atlantic Council (taking into consideration any applicable law of the receiving State) and distributed among or credited or debited to the Parties to the North Atlantic Treaty in the proportions in which they have contributed to the capital costs of the Headquarters.

ARTICLE 10

Each Supreme Headquarters shall possess juridical personality; it shall have the capacity to conclude contracts and to acquire and dispose of property. The receiving State may, however, make the exercise of such capacity subject to special arrangements between it and the Supreme Headquarters or any subordinate Allied Headquarters acting on behalf of the Supreme Headquarters.

ARTICLE 11

1. Subject to the provisions of Article VIII of the Agreement, a Supreme Headquarters may engage in legal proceedings as claimant or defendant. However, the receiving State and the Supreme Headquarters or any subordinate Allied Headquarters authorised by it may agree that the receiving State shall act on behalf of the Supreme Headquarters in any legal proceedings to which that Headquarters is a party before the courts of the receiving State.

2. No measure of execution or measure directed to the seizure or attachment of its property or funds shall be taken against any Allied Headquarters, except for the purposes of paragraph 6(a) of Article VII and Article XIII of the Agreement.

ARTICLE 12

1. To enable it to operate its international budget, an Allied Headquarters may hold currency of any kind and operate accounts in any currency.

2. The Parties to the present Protocol shall, at the request of an Allied Headquarters, facilitate transfers of the funds of such Headquarters from one country to another and the conversion of any currency held by an Allied Headquarters into any other currency, when necessary to meet the requirements of any Allied Headquarters.

ARTICLE 13

The archives and other official documents of an Allied Headquarters kept in premises used by those Headquarters or in the possession

of any properly authorised member of the Headquarters shall be inviolable, unless the Headquarters has waived this immunity. The Headquarters shall, at the request of the receiving State and in the presence of a representative of that State, verify the nature of any documents to confirm that they are entitled to immunity under this Article.

ARTICLE 14

1. The whole or any part of the present Protocol or of the Agreement may be applied, by decision of the North Atlantic Council, to any international military Headquarters or organisation (not included in the definitions in paragraphs (b) and (c) of Article 1 of this Protocol) which is established pursuant to the North Atlantic Treaty.

2. When the European Defence Community comes into being, the present Protocol may be applied to the personnel of the European Defence Forces attached to an Allied Headquarters and their dependents at such time and in such manner as may be determined by the North Atlantic Council.

ARTICLE 15

All differences between the Parties to the present Protocol or between any such Parties and any Allied Headquarters relating to the interpretation or application of the Protocol shall be settled by negotiation between the parties in dispute without recourse to any outside jurisdiction. Except where express provision is made to the contrary in the present Protocol or in the Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council.

ARTICLE 16

1. Articles XV and XVII to XX of the Agreement shall apply as regards the present Protocol as if they were an integral part thereof, but so that the Protocol may be reviewed, suspended, ratified, acceded to, denounced or extended in accordance with those provisions independently from the Agreement.

2. The present Protocol may be supplemented by bilateral agreement between the receiving State and a Supreme Headquarters, and the authorities of a receiving State and a Supreme Headquarters may agree to give effect, by administrative means in advance of ratification, to any provisions of this Protocol or of the Agreement as applied by it.

In witness whereof the undersigned Plenipotentiaries have signed the present Protocol.

Done in Paris this 28th day of August 1952, in the English and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

[There follow the signatures on behalf of the following NATO countries—Belgium, Canada, Denmark, France, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Turkey, United Kingdom, United States.]

PART II. SUMMARY RECORDS

D-R(50) 1

Summary Record of a Meeting of the Council Deputies, 25 July 1950

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(d) Status of NATO Representatives and International Staff

7. The Chairman proposed the setting up of a subcommittee to consider and report on this item. This was accepted, and the Deputies of Belgium, France, Italy, Norway, the United Kingdom and the United States agreed to appoint representatives to serve on this subcommittee.

8. It was pointed out during discussion that from the host Government's point of view a most important consideration is the extent of the privileges and the number of officials to whom such privileges would be granted. This also involves consideration of privileges for other NATO representatives and their staffs in London, in addition to the Council Deputies. The Deputies agreed that the decisions taken and the experience gained by Governments with regard to privileges for representatives of other international organizations will be of assistance to the subcommittee in considering this question.

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D-R(50) 8

Summary Record of a Meeting of the Council Deputies, 4 August 1950

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(d) Status of NATO Representatives and International Staff.¹

13. The United Kingdom Deputy, as Chairman of the subcommittee set up to report on this subject, said that the subcommittee were agreed that the most satisfactory arrangement in order that NATO Representatives and International Staff should be accorded privileges

¹ Reference: D-D(50) 19 (4 August 1950).

and immunities would be for an international agreement to be entered into by NATO countries. Such an agreement would also cover buildings, etc., occupied by NATO bodies.

14. Such an agreement would need Parliamentary sanction and therefore some few months might elapse before the agreement could come into force. In the meantime His Majesty's Government would be prepared to arrange for the names of those officials employed on delegations to the North Atlantic Council to be included on the diplomatic list of delegations until such time as the international agreement was entered into.

15. Paragraph 3(2) gave details regarding those officials who would be covered by such an arrangement. Paragraph 3(3) outlined the arrangements which His Majesty's Government would be prepared to make for such officials as were not covered by paragraph 3(2).

16. It was agreed to accept the offer kindly made by the United Kingdom Deputy that the legal adviser to the United Kingdom Delegation would draw up a draft of an international agreement.²

17. The report of the subcommittee was approved on the understanding that this question would be considered again by the Council Deputies when the United Kingdom Delegation had submitted the draft of the international agreement.

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D-R(50) 43

Summary Record of a Meeting of the Council Deputies, 17 December 1950

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IX. Diplomatic Immunities and Privileges for NATO Staffs in London.

55. The United Kingdom Deputy stated that the draft Convention defining the status in the United Kingdom of the National Delegations to NATO and the members of the International Secretariat had not yet been completed. In the meantime, the United Kingdom Government was prepared to grant diplomatic immunities and privileges to the non-British senior staff of the Secretariat of the Council Deputies. The Secretary was requested to notify the Foreign Office of the names of the persons concerned, after consultation with the

² This appeared as D-D(51) 58 (1 March 1951).

Chairman. When the convention came into force those persons would, of course, be subject to the regulations laid down by that convention. In addition the United Kingdom Government trusted that members of the Secretariat, when travelling in the member countries, would be granted diplomatic immunities and privileges during their visits.

56. The Council Deputies:

- (1) Took note of the statement by the United Kingdom Deputy;
- (2) Instructed the Secretary to inform the Foreign Office of the names of the senior staff concerned.

D-R(51) 3

Summary Record of a Meeting of the Council Deputies, 15 January 1951

* * * * *

VI. Status of the NATO Integrated Force.

42. The Chairman pointed out that it would be necessary to draw up a multilateral convention to which all members of the North Atlantic Treaty Organization would be a party, covering the status of members of the integrated force. In his capacity as United States Deputy he would be prepared to circulate a memorandum¹ which might serve as a basis for discussion. The points to be covered by any convention were numerous and complicated, and he suggested that a special Working Group should be set up, consisting of legal experts nominated by each Government who wished to be represented, who would be charged with the task of preparing a draft convention. These legal experts would require advice from military and other experts on certain issues.

43. The United Kingdom Deputy, while welcoming the idea of a multilateral convention, pointed out that a similar agreement had already been reached between the Western Union powers. As this Agreement, which had been published as Cmd. 7868, already had the approval of five of the twelve NATO powers, the preparation of the multilateral convention might be considerably expedited if this Agreement could be taken as a basis for discussion.

44. The Council Deputies:

- (1) Agreed to constitute a Working Group consisting of legal experts nominated by the individual countries to draw up a

¹ Distributed as D-D(51) 23 (23 January 1951).

draft multilateral convention governing the status of members of the NATO integrated force.

- (2) Agreed to nominate the individual representatives not later than Monday, 22 January 1951.
- (3) Agreed that the Western Union Agreement (Cmd. 7868),² together with the memorandum which the Chairman had undertaken to circulate, should both be transmitted to the Working Group as bases for discussion.

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MS-R(51) 1

Summary Record of a Meeting of the Working Group on Status, 29 January 1951

I. Opening of the Conference—Chairmanship.

1. The meeting was opened by His Excellency, Count E. Reventlow, Vice-Chairman of the Council Deputies, who welcomed the delegations and invited the Working Group to proceed to the election of its Chairman.

2. On the proposal of the French Delegation, which was seconded by the Delegations of the United States and Italy, Mr. G. W. Lambert¹ was unanimously elected Chairman of the Working Group.

3. The Working Group agreed that no interpretation would be required at plenary meetings. This decision might however be altered in the case of technical discussions, if one of the representatives so desired.

II. Preliminary Question: Application of the Agreement in the Event of War.

4. The Chairman stated that two documents had been submitted to the Working Group as a basis for its work: the Status of the Armed

² Agreement Relative to the Status of Members of the Armed Forces of the Brussels Treaty Powers, entered into at Brussels on 21 December 1949, by Belgium, France, Luxembourg, the Netherlands and the United Kingdom. It is variously referred to in the course of the present negotiations as the "Western Union Agreement" or the "Brussels Status Agreement." It served as the basis for the draft Agreement on the Status of NATO Forces found in D-D(51) 23 (23 January 1951). For a comparison of the Brussels Agreement with the NATO draft, see MS-D(51) 1 (30 January 1951).

¹ United Kingdom Representative.

Forces of the Brussels Treaty Powers² and a draft submitted by the United States Delegation.³

5. Before proceeding to the study of these documents,⁴ the Chairman considered the possibilities of extending the Agreement to time of war. The Status of the Armed Forces of the Brussels Treaty Powers was only applicable in time of peace and provided in Article 17 that the Agreement could be suspended in the event of any Party being involved in a war. The Chairman raised the question whether, instead of considering the preparation of a similar document, it would not be preferable to proceed immediately to the discussion of provisions applying also to time of war. To this end, agreement should be reached on the principle in order to give precise instructions to the committee of experts. Referring to the United States draft, the Chairman drew attention to the fact that paragraph 10 of Article VI and Article XIV laid down special procedure in the event of war. Provision should perhaps be made in each article of the final document for procedure in the event of war.

6. This distinction between time of war and time of peace would call for a definition of the state of war. The Chairman pointed out that in Article XIV of the United States draft the word "hostilities" was used, whereas the word "war" appeared in Article 17 of the Brussels Status Agreement.

7. The United States Representative remarked that the United States draft had intentionally departed from the terminology used in the Agreement concluded by the Brussels Treaty Powers. The participating countries should adopt a common definition of these two terms.

8. On the Chairman's proposal, the Working Group agreed to invite the technical subcommittees to:

- (a) prepare a draft text laying down procedure in time of peace;
- (b) study separately what should be done in time of war. In many cases, the same procedure could probably be adopted in both eventualities.

² Cmd. 7868, reproduced at page 331, *infra*.

³ D-D(51) 23 (23 January 1951).

⁴ Articles in the United States draft, D-D(51) 23 (23 January 1951), are designated by Roman numerals, while those in the Brussels Status Agreement bear Arabic numerals. Unless otherwise indicated, references in the Summary Records and Documents are to the United States draft and its revisions. Ambiguous references are clarified by the designation "NATO" in parentheses to designate the United States draft, and by the words "Brussels Status" in parentheses to indicate the Brussels Treaty Status.

III. Organization of the Conference—Formation of Technical Subcommittees.

9. The two documents referred to in paragraph 4 above, which had been submitted to the Working Group, dealt with a large number of very different problems: it would therefore be necessary at the first meeting to give detailed consideration to the procedure to be followed in future discussions.

10. With this end in view, the Chairman said that the following subcommittees could be formed:⁵

- (a) a Financial Subcommittee charged with questions relating to the distribution of financial burdens arising out of claims, for example;
- (b) a Juridical Subcommittee, charged with questions relating to the supervision of personnel and vehicles, the carriage of arms, immigration, etc.
- (c) a Fiscal Subcommittee, charged with questions relating to income-tax exemption, entry duties, death duties, etc.
- (d) a Military Subcommittee—if it was shown to be necessary—charged with questions relating to the control of troop movements, the wearing of uniforms, etc.
- (e) lastly, at the final stage, various questions relating purely to form would have to be studied: instruments of ratification, the first and last paragraphs of the draft Agreement, etc. These questions might be dealt with by a special subcommittee dependent on the Ministries of Foreign Affairs.

11. Moreover, in the interests of speed, it would be desirable to keep the number of representatives at each of the subcommittees as small as possible. It might perhaps be arranged that one delegate should represent several countries.

12. The United States Representative did not share this opinion: he thought that all countries should be consulted on every question. He therefore wondered whether it was advisable to subdivide the Working Group into subcommittees. In his opinion, it would be preferable if each question were the subject of a preliminary exchange of views in plenary session, following which a drafting committee—composed of two or three members—would be charged with preparing a text; this text would be submitted for approval to the Working Group.

13. The Belgian Representative proposed that all questions should

⁵ Summary Records of the Financial Subcommittee are contained in MS(F)–R(51) 1–6 (13–16 February 1951), and those of the Juridical Subcommittee in MS(J)–R(51) 1–9 (8–23 February 1951). The other subcommittees here proposed seem never to have been formed.

be considered by the Working Group composed of the twelve delegations, as the United States Representative had suggested, either in order to hold a preliminary exchange of views or to approve the text prepared by the drafting committees; he hoped however that the questions would be dealt with under the two headings of "juridical" and "financial," in order that those delegations who had the benefit of the presence of juridical and financial experts could delegate one or other of their experts to study those questions in the subcommittees.

14. In the opinion of the French Representative, the Working Group, before embarking on the consideration of the juridical or financial questions, should come to a decision on the general questions, such as "definitions" and "general principles," on which the Agreement would be based. After this first stage, it would be possible to divide the articles to be discussed into two groups: juridical and financial.⁶

15. On the Chairman's proposal, the Working Group agreed:

- (1) to devote the second plenary meeting, to be held on 29 January 1951, to the first questions of a general nature—Article I (United States draft) and Article 1 (Brussels Status).
- (2) to resume discussion on questions of procedure, after this first exchange of views.

16. The Icelandic Representative drew the attention of the Working Group to the special position of his country and expressed the wish that it should be taken into account when preparing the Status. As Iceland had no military force, it could only be a "receiving State" and for that reason could not benefit from the reciprocity existing among the other countries which were, according to circumstances, either a "receiving State" or a "sending State." Because of the small size of the population in Iceland, the presence on its territory of foreign armed forces would affect internal conditions more than would be the case in the other countries.

MS-R(51) 2

Summary Record of a Meeting of the Working Group on Status, 29 January 1951

I. Consideration of Article I of the Draft Agreement.¹

1. The Chairman proposed that the Working Group should con-

⁶ See MS-D(51) 1 (30 January 1951).

¹ References: D-D(51) 23 (23 January 1951) for the United States draft; Cmd. 7868 (21 December 1949) for the Brussels Treaty Status.

sider Article I of the draft prepared by the United States Delegation, comparing it with Article 1 of the Status of the Armed Forces of the Brussels Treaty Powers.

2. The text submitted by the United States Delegation used the word "contingent," whereas the term "foreign force" appeared in the Status of the Brussels Treaty Powers. These two terms were defined in different ways; "contingent" included civilian personnel accompanying the forces, in addition to military personnel. The United Kingdom would find it difficult to extend the Agreement to apply to civilian personnel, for British military law only applied to civilians accompanying forces in the event of hostilities. In time of peace, therefore, civilians in this position were not subject to military jurisdiction.

3. The United States Representative stated that the definition of the term "contingent" arose out of United States military legislation, which assimilated certain categories of civilians to the military personnel; military legislation applied to them, even in time of peace, outside the national territory and certain territories under United States control.

4. Military law applied to the following categories of persons:²

(10) In time of war, all persons serving with or accompanying an armed force in the field;

(11) Subject to the provisions of any treaty or agreement to which the United States is or may be a party or to any accepted rule of international law, all persons serving with, employed by, or accompanying the armed forces without the continental limits of the United States and without the following territories: That part of Alaska east of longitude one hundred and seventy-two degrees west, the Canal Zone, the main group of the Hawaiian Islands, Puerto Rico, and the Virgin Islands;

(12) Subject to the provisions of any treaty or agreement to which the United States is or may be a party or to any accepted rule of international law, all persons within an area leased by or otherwise reserved or acquired for use of the United States which is under the control of the Secretary of a Department and which is without the continental limits of the United States and without the following territories: That part of Alaska east of longitude one hundred and seventy-two degrees west, the Canal Zone, the main group of the Hawaiian Islands, Puerto Rico, and the Virgin Islands.

5. The Chairman ascertained, on the basis of statements made by each representative, that military law in the majority of the member

² Uniform Code of Military Justice, Art. 2; 10 U.S.C. § 802 (1958 ed.)

countries showed a certain similarity insofar as it applied to civilians in time of peace; civilians were not normally subject to military law in time of peace except in certain cases when they accompanied the armed forces outside the national territory.

6. Moreover, the Chairman recalled that the definition given in the Brussels Treaty Status of the "foreign force" did not envisage the presence of civilians under any circumstances, even when the foreign force was maintained on duty in the territory of one of the Contracting Parties, other than the territory of the sending State.

7. It would therefore appear inadvisable to extend the definition of "contingent" to include civilians accompanying the foreign force. To do so would be to run the risk of giving rise, not only to juridical inequalities, but also to material inequalities, as the civilians accompanying certain forces might not enjoy the same advantages as those belonging to other forces.

8. The United States Representative proposed that the reference to military law should be deleted in his draft and that the text should lay down that the Status would apply to all persons serving with, employed by, or accompanying the armed forces outside the territory of the sending State.

9. The French Representative considered that it was necessary to adopt a single definition applying to all countries, which would not accentuate the difference between the various military codes. This definition should therefore be established without referring to a law which varied from one country to another. On the other hand, the civilians accompanying military forces could not be ignored and their status should be defined in some way. In the opinion of the French Representative, the definition proposed by the United States Representative was too vague: the word "accompanying" called for a more specific definition.

10. The United States Representative considered that the word "accompanying" could be deleted, since the civilians in question were accompanying the military forces "in the execution of orders" and, for this reason, they could be regarded as serving with the military forces or employed by them.

11. The United Kingdom Representative was not in a position to accept the United States proposal; the Brussels Treaty Status did not apply to civilians; moreover, civilians at present accompanying United States forces in the United Kingdom did not enjoy the same status as the armed forces. It would therefore appear desirable to exclude all civilians from the definition of the word "contingent," at least in time of peace; the question would have to be reconsidered to provide for time of war. The United Kingdom Representative could

take no final decision at the present stage and would seek further instructions in this matter.

12. The Italian Representative also desired to exclude civilian personnel from the definition and would be in favor of adopting the text of the Brussels Treaty Status. In Italy, civilians attached to the army were subject to military law only in time of war and in that event they could be regarded as "militarized." In time of peace, civilians were subject to civil law; nevertheless, if they followed the army outside the national territory, they were regarded as "militarized" and subject to military law. In view of the difficulties encountered by the various delegations in adopting one common definition of the term "contingent," he considered that it would be preferable to confine the definition to the armed forces.

13. The Chairman concluded that the great majority of delegations were in favor of excluding civilians from the definition of "contingent," at least in time of peace. It would however appear advisable to envisage a separate Status, which would apply to certain classes of civilians in liaison with the armed forces.

II. Organization of the Conference.

14. On the Chairman's proposal, the Working Group:

- (1) Agreed to postpone the discussion on organizational questions to the following meeting, which would take place on Tuesday, 30 January 1951.
- (2) Instructed the Secretary to prepare a working paper³ dealing with the two following questions:
 - (i) the regrouping of the articles by subjects (juridical, financial, etc.);
 - (ii) a comparison between the Status of the Armed Forces of the Brussels Treaty Powers and the draft submitted by the United States Delegation.

MS-R(51) 3

Summary Record of a Meeting of the Working Group on Status, 30 January 1951

I. Canadian Military Law.

1. Referring to the exchange of views at the second meeting of the Working Group, the Canadian Representative stated that Canadian military law applied to certain civilians, namely those who accompanied the Canadian forces in active duty, wherever they might

³ MS-D(51) 1 (30 January 1951).

be stationed. Nevertheless, military law did not affect the competence of the civil courts in respect of any offense falling within their jurisdiction. Canadian military law also provided that the military courts would be competent in respect of any offense against the civil code which would have been punishable if it had been committed in Canadian territory. In conclusion, the military law which was in force in Canada resembled United States military law.

II. Organization

2. The Chairman proposed that the Working Group should rapidly review the articles appearing in the draft submitted by the United States Delegation, in order to regroup them under separate headings. He proposed that those headings should be restricted to three groups—juridical, financial, and treaty points. Articles I to VI fell under the heading of “juridical”; Articles VII to XIII under the heading of “financial”; the others related to the implementation of the Agreement and should not be studied until a later stage.

3. The Chairman proposed that the Brussels Treaty Status should be taken as a working basis. It would be helpful if each delegation would make known its Government’s views on this matter. It would perhaps be possible for all the Powers which were not signatory to the Brussels Treaty to accept that Status in broad outline. It was suggested that the Working Group should suspend its discussions for approximately one week.

4. Although he had not yet received instructions from his Government, the Icelandic Representative believed that neither the draft prepared by the United States Delegation nor the Brussels Treaty Status would be acceptable to his Government. They would no doubt favor a special agreement regarding the services which Iceland could render to foreign forces stationed on her territory.

5. The Working Group:

- (1) Noted that the majority of delegations were prepared to take the Brussels Treaty Status as a practical working basis.
- (2) Invited the various Governments to make known their views on that text.
- (3) Agreed to submit the first six articles of the draft prepared by the United States Delegation to a subcommittee composed of juridical experts. The Delegations of Belgium, Canada, France, Italy, the Netherlands, the United Kingdom and the United States undertook to send representatives. The Delegations of Denmark, Iceland, Norway and Portugal reserved the right to be represented on the subcommittee at a later date.

III. Consideration of the Draft on Status.¹

6. The Chairman proposed that the Working Group should proceed to a first consideration of the first six articles, which could be regarded as having a more specifically juridical character. In the course of the exchange of views, the following comments were made.

ARTICLE II, par. 1.

7.—(a) The words “subject to procedures established by the receiving State relating to entry and departure” did not appear in the original text of the Brussels Treaty Status (Article 3, par. 1). As this word gave rise to no special question of substance, it was agreed that it should be amended at a later date; the reference to paragraph 2 which appeared in the first line would no doubt be sufficient.

(b) “And immigration inspection.” The inclusion of these terms in the Status would dispense foreign armed forces from immigration formalities which were usually very complicated. This wording was included in the United States draft in order to avoid the very lengthy procedure which would be necessary if the law were to be amended by Congress. This exception to immigration legislation explained the presence of the last clause concerning the acquisition of “any rights of permanent residence or domicile in the territories of the receiving State.”

ARTICLE 2, par. 1 (Brussels Status).

8. It was noted that the new draft submitted by the United States Delegation removed the distinction between “personnel on permanent duty” and “personnel on temporary duty” (Article 2, par. 1, of the Brussels Treaty Status) in the interests of simplicity. It did not seem advisable to provide, as in the Brussels Treaty Status, that the Secretariat-General should be charged with keeping up to date a nominal roll of permanent personnel.

ARTICLE II, par. 2.

9. It was agreed to leave the discussion on the form of the identity card and movement order to the Juridical Subcommittee.

¹ Reference: D-D(51) 23 (23 January 1951) for United States draft; Cmd. 7868 (21 December 1949) for the Brussels Treaty Status.

ARTICLE III.

10.—(a) Article 4 of the Brussels Treaty Status, which dealt with the same problem, did not apply to civilians. It was agreed that this question, which raised the special case of dependents, would be considered in the course of the discussion on the status of civilians in general.

(b) “The sending State or sub-division thereof.” This term referred to the various States of the United States which had different legislations regarding driving licenses. It was therefore advisable that the Agreement should provide for any exception to those legislations, to avoid the necessity of amending the legislative text itself.

ARTICLE IV, par. 1

11. “Members of regularly constituted military units and formations.” The new specifications appearing in the United States draft with respect of Article 5, par. 1, of the Brussels Treaty Status, took into account the possible existence of civilian personnel. This question would have to be considered during the general discussion on civilians.

ARTICLE IV, par. 2

12. The Working Group agreed that they would consider the possibility of transferring this paragraph to Article III.

ARTICLE V

13. This Article dealt with the same subject as Article 6 of the Brussels Treaty Status but did not repeat paragraph 1 of that Article, which provided that the possession and carrying of arms by members of a foreign force shall be subject to the same laws and regulations as were applied to the forces of the receiving State. In order to avoid any possibility of confusion in this matter, it was proposed that the wording of the United States draft should be amended by stipulating that paragraph 1 of Article V of the draft should be restricted to the carriage of arms when under orders; this would make it possible to apply the regulations in force to members of a foreign force when they were not on duty.

MS-R(51) 4

Summary Record of a Meeting of the Working Group on Status, 31 January 1951

*I. Consideration of Article VI of the Draft.*¹

1. Commenting on Article VI of the draft prepared by his Delegation, the United States Representative drew the attention of the Working Group to the following points. Article VI was based on the principle that the jurisdiction of the receiving State applied to "foreign forces and civilian personnel," hereafter described by the term "contingents." This principle, on which the United States draft was based, differed from international law, which provided that—in the absence of any special agreement—the sending State retained the right of jurisdiction over its forces stationed outside the national territory. The international law on the subject was largely inspired by the decision of Chief Justice Marshall in the case of *The Schooner Exchange v. McFaddon*, 7 Cranch 116 (U.S. 1812).

2. Although the draft prepared by the United States Delegation was based as a whole on the principle of the right of the courts of the receiving State to exercise jurisdiction over the "contingents," certain exceptions were laid down in the United States draft. The United States Representative began by pointing out two exceptions which were probably beyond dispute:

- (a) Article VI, par. 5, corresponding to Article 7, par. 2 (last paragraph) of the Brussels Treaty Status, stated that the military authorities of the sending State shall have, within the receiving State, any jurisdiction and control conferred upon them by the law of the sending State in relation to an offense committed by a member of their own armed forces; and
- (b) Article VI, par. 2(b) and (c), corresponding to Article 7, par. 2 (third paragraph) of the Brussels Treaty Status, stated that the military courts of the sending State shall have jurisdiction in the case of offenses committed against the law of the sending State, when such offenses were not punishable by the laws of the receiving State. Such offenses could only be punishable by the competent military authorities of the sending State.

3. The United States Representative went on to consider various cases which were not covered by the Brussels Agreement or which departed from that text:

¹ Reference: D-D(51) 23 (23 January 1951) for the United States draft; Cmd. 7868 (21 December 1949) for the Brussels Treaty Status.

(a) Criminal jurisdiction in time of war

Article VI, par. 10, provided that in time of war the sending State shall exercise sole jurisdiction in the case of offenses committed by members of its "contingents." This had a purely practical purpose: in time of war it would be inadvisable that members of the force or assimilated personnel should be withdrawn from the control of their military authorities by reason of their subjection to the jurisdiction of the receiving State. The assumption of paragraph 10 did not appear in the Brussels Agreement, since the latter did not provide for time of war.

(b) Criminal jurisdiction in time of peace

The draft provides that the courts of the receiving State normally exercise jurisdiction. The United States draft however laid down two exceptions:

- (i) Article VI, par. 2(d). An offense against the laws of the receiving State arising out of any act done "in the performance of official duty" by a member of a "contingent" or pursuant to a lawful order issued by competent authority. Very few categories of this type would arise; examples would be sentinels using unnecessary force when on duty, or automobile accidents of drivers proceeding on official duty.
- (ii) Article VI, par. 2(a). An offense committed against one member of a "contingent" or his dependents by another member of the same "contingent."

4. A number of paragraphs of the United States draft, in particular par. 1, 3 and 4 of Article VI, developed the right of jurisdiction of the courts of the receiving State, which appeared in Article 7, par. 1-2 of the Brussels Agreement. Paragraph 4 of the United States draft, however, provided certain safeguards, in conformity with the procedure followed in the United States; it might be necessary to amend those safeguards, in order to bring them into line with the practice in other countries. For example, Article VI, par. 4(g), provided that the member of a contingent shall be entitled to have a representative of the Government of the sending State present at any stage of the detention and trial, in particular at the examination before trial; this might be incompatible with the penal code in force in one or other of the member countries, when such examination must be private.

(c) Civil jurisdiction

4a. Turning to the problem of civil jurisdiction, the United States Representative pointed out that Article VI, par. 6, provided that the

courts of the receiving State shall exercise jurisdiction, with the sole exception of matters arising from the performance of official duties.

5. The Chairman thanked the United States Representative for his statement. He stressed that, when this Article was under consideration by the Juridical Subcommittee, it would be of advantage if problems of procedure were studied from the most practical standpoint, in the endeavor to lay down rules which could be applied as easily as possible. It was necessary that the final text should be easily understood by local police officials and give clear and precise instructions.

6. The French Representative referred to Article VI, par. 10, of the United States draft. It was no doubt advisable to give immediate considerations to procedure to apply in time of war, but it would not be desirable to extend the present Status to cover time of war, which should be the subject of a separate document receiving less publicity than the document covering time of peace.

7. The Italian Representative emphasized that, although it was necessary to lay down practical instructions as the United Kingdom Representative had proposed, the Working Group should first give its attention to a question of principle—the conflict between the sovereignty of the receiving and sending States.

8. The Working Group agreed to refer Article VI for study to the Juridical Subcommittee.

II. Consideration of Article VII-XIII.

9. The Chairman proposed to proceed to the preliminary consideration of Articles VII-XIII, which dealt primarily with financial questions.

10. Referring to Article VII, the Chairman drew the attention of the Working Group to the wording of paragraph 1, which made the receiving State responsible for paying compensation with respect to claims for damage caused in its territory, leaving to a later stage the distribution among the twelve member countries. The application of this principle might give rise to special difficulties. It would therefore be necessary for the Financial Subcommittee to study this question in greater detail.

11. The United States Representative pointed out that Article VII, par. 1, was the logical complement of Article VI, par. 6, which provided that members of a contingent shall be immune from the civil jurisdiction of the receiving State. It would therefore be the normal corollary to lay down procedure for compensation to ensure that damage should not be caused without being covered by compensation.

12. In reply to a question, the United States Representative stated

that the expression "incident to non-combatant duties" signified activities in time of peace. The distinction between "time of peace" and "time of war" should be the subject of an exchange of views.

13. The Chairman pointed out that the United States proposal did not cover damage caused by acts not relating to the performance of official duties. Article 8, par. 4, 6 and 7, and Articles 9 and 10 of the Brussels Treaty Status were not repeated in the United States draft.

14. The United States Representative said that, in the case of damage caused by acts not relating to the performance of official duties, it was the normal procedure of the receiving State which applied. He admitted, however, that his draft did not lay down the procedure to be followed when investigating claims.

15. The Italian Representative commented that the draft submitted by the United States Delegation differed considerably from the Brussels Treaty Status. The draft provided that the claim would be met by the receiving State, although it would be subject to subsequent distribution among the North Atlantic Treaty countries. He was obliged to reserve His Government's view on this draft.

16. The Chairman, summing up the discussion, concluded that the majority of delegations agreed to the procedure governing the submission of claims which was laid down in the draft. The general opinion appeared to be, however, that judgment should be reserved on the United States proposal relating to the settlement of claims.

17. The United States Representative proposed that this question should be studied at a later date, in order not to delay the preparation of the final draft dealing with all the other questions, which could be more easily solved.

18. With regard to Articles VIII, IX and X, the Chairman commented that the only important respect in which they departed from the corresponding articles of the Brussels Treaty Status was the mention of dependents, who enjoyed the same privileges as the "contingents." This question also should be the subject of an exchange of views when the status reserved for civilians was under consideration.

III. Organization of the Conference.

19. The Working Group agreed:

- (1) to call a meeting of the Juridical Subcommittee to consider Articles I-IV on Thursday, 8 February 1951;²
- (2) to call a meeting of the Financial Subcommittee to consider Articles VII-XIII on Tuesday, 13 February 1951.³

² For the records of the Juridical Subcommittee, see MS(J)-R(51) 1-9 (8-23 February 1951).

³ For the records of the Financial Subcommittee, see MS(F)-R(51) 1-6 (13-16 February 1951).

MS(F)-R(51) 1

Summary Record of a Meeting of the Working Group on Status (Financial Subcommittee), 13 February 1951

*I. Article I—Definitions.*¹

1. Before opening the discussion on the redraft of Article VII submitted by the United States Delegation, the Chairman² drew the attention of the Working Group to the new wording of the first six articles which had been circulated as MS-D(51) 5, for the preparation of which he desired to thank the United States Representative in particular.

2. Article I contained a list of new definitions, in particular of the following terms:

“force”: strictly military personnel, belonging to the land, sea or air armed services when they were serving in the territory of another Contracting Party; in practice this limited the definition to personnel entitled to wear uniform;

“civilian component”: a limited category of civilians, namely, those employed by the forces; this definition excluded civilians who were nationals of the receiving State or residents in the territory of that State, and their dependents.

These definitions would be used in the course of the discussions on Article VII, which was on the agenda for the present meeting.

*II. Consideration of Article VII.*³

ARTICLE VII, par. 1

3. It emerged from the discussion on Article VII, par. 1, that there was a considerable divergence of views on the interpretation of Article 8 of the Western Union Agreement, which a number of Representatives considered to have a narrower application than the provi-

¹ Reference: MS-D(51) 5 (12 February 1951).

² Mr. G. W. Lambert, United Kingdom Representative, served as Chairman for all six meetings of the Financial Subcommittee, MS(F)-R(51) 1-6 (13-16 February 1951).

³ Reference: MS-D(51) 4(R) (12 February 1951). An earlier revision of the Article on claims, MS-D(51) 4 (9 February) was superseded by MS-D(51) 4(R) and hence was never considered by the Financial Subcommittee or the

sions of the redraft of Article VII. This was particularly the case with respect to the following points:

- (a) The first paragraph of the redraft lays down the general principle that the Contracting Parties waive claims for damages to any property owned by a member State, whereas the corresponding Article of the Western Union Agreement (Article 8, par. 2) is only an exception to the principle of the payment of compensation for damages to a third party (Article 8, par. 2). In the case of vessels, the Western Union Agreement accordingly provides no waiver of claims for damages to the property of one of the member States, but it specifies that the claims shall be brought against the State to which the vessels belong; this makes it possible to avoid the application of common law which might include seizure.
- (b) Is it necessary to restrict the application of this Article to accidents occurring in the territory of one of the Contracting Parties, as provided in the preambles of the Western Union Agreement and the draft submitted by the United States Representative, or would it be preferable to state that this provision applies wherever the accident takes place?
- (c) The Western Union Agreement only takes account of accidents occurring in the execution of the provisions of the Brussels Treaty, whereas the draft Agreement nowhere specifies a similar restriction.

4. The Subcommittee:

- (1) took note of the divergent interpretations given to the text of the Western Union Agreement (Article 8) by the various delegations;
- (2) agreed, in view of the nature of the divergencies, to refer the question of the principle of the mutual waiver of certain claims to the Juridical Subcommittee, drawing its attention to the important financial consequences which might arise from extending the application of the provisions of this Article.

5. In the course of discussion, certain points were nevertheless clarified with respect to the significance of the redraft of Article VII, par. 1. In particular, it was recognized that the phrase "owned by such Contracting Party and used by its Service Ministries (land, sea or air armed services)" signified that the provision in question applied only to the property which was both owned by one of the

Contracting Parties and used by the land, sea or air armed services. A definition of this kind excluded the case of vessels chartered, but not owned, by the State.

6. At the request of the Norwegian Representative, it was proposed that paragraph 1 should include a provision similar to that appearing in paragraph 2, restricting the application of the provision to damage caused while in the performance of official duties.

7. The Subcommittee:

(3) took note that the problem of maritime damages raised the following questions:

- (i) the application of the Agreement outside territories controlled by NATO member countries;
- (ii) the restriction of the Agreement to damages caused while in the execution of the provisions of the North Atlantic Treaty;

(4) agreed to refer Article VII, par. 1, to the Juridical Subcommittee.

ARTICLE VII, par. 2

8. Paragraph 2 provided that the member States would waive all claims for injury or death suffered by any member of their armed forces while in the performance of his official duties. Like paragraph 1, paragraph 2 was restricted to relations between States, and therefore the phrase "or any member of its armed services" would be omitted from the final text. It was noted that actions against individuals belonging to an armed force were the subject of paragraph 4 of the same Article.

9. On the proposal of the Norwegian Representative, it was agreed to amend the wording of paragraph 2 to bring it into line with the previous paragraph, and it would therefore begin as follows: "Each Contracting Party waives all claims arising from injury or death suffered by any member of the armed services of any Contracting Party while in the performance of his official duties."

10. The Subcommittee:

(1) agreed to amend the wording of Article VII, par. 1, in conformity with the above comments;

(2) agreed to refer Article VII, par. 2, to the Juridical Subcommittee.

ARTICLE VII, par. 3

11. Paragraph 3 dealt with civil actions brought against a member of an armed force or its civilian component. In view of the fact that the first two paragraphs were restricted to problems arising

between States, it was proposed that the following words should be deleted from the beginning of the first sentence: "Subject to the provisions of the two preceding paragraphs."

12. The Subcommittee:

- (7) agreed to amend Article VII, par. 3, in conformity with the above comments;
- (8) agreed to refer Article VII, par. 3, to the Juridical Subcommittee.

MS(F)-R(51) 2

Summary Record of a Meeting of the Working Group on Status (Financial Subcommittee), 13 February 1951

I. Consideration of Article VIII.¹

1. Before embarking on the discussion, paragraph by paragraph, of Article VIII, the Chairman pointed out that the new definitions of the terms "force" and "civilian component" should be borne in mind. He therefore requested the delegations to correct the text of Article VIII accordingly. Wherever the word "contingent" appeared, it should be replaced by "force and civilian component."

ARTICLE VIII, par. 1

2. Paragraph 1 applied not only to members of forces and civilian components, but also to their dependents. Such members of the force, the civilian component, or their dependents would be subject to the same conditions as the similar categories of nationals of the receiving State.

ARTICLE VIII, par. 2

3. Paragraph 2 applied to bulk purchases for the use of the forces and civilian components of the sending State. It was proposed that the words "government personnel" should be replaced by "personnel of the armed services."

ARTICLE VIII, par. 3

4. In the course of discussion on paragraph 3, which relates to the accommodation of forces on the territory of the receiving State, the following comments were made:

¹ Reference: D-D(51) 23 (23 January 1951). The discussion was in terms, however, of the new definitions contained in Article I of MS-D(51) 5 (12 February 1951).

- (a) The phrase "as well as such other facilities and services as it requires" should be interpreted as signifying only the facilities of the buildings placed at the disposal of the forces, such as water, gas, electricity, etc. In order to avoid all risk of confusion, it was agreed that the phrase in question should be replaced by: "as well as such facilities and services connected therewith."
- (b) The expression "competent authorities" had been translated by "*les autorités militaires compétentes*." It was agreed to delete the word "militaires," which did not appear in the English text.
- (c) The redraft differed from Article 11, par. 3, of the Western Union Agreement, in that it did not cover the billeting of military personnel and was restricted to their accommodation. It was agreed that the word "billeting" should be replaced in the draft. This amendment was necessary on account of the fact that in France, for example, billeting orders were used in time of peace, but accommodation was not requisitioned.
- (d) The last sentence of paragraph 3 of the draft differed from the last sentence of Article 11, par. 3, of the Western Union Agreement; the latter had been worded with a view to protecting the rights of the owner rather than those of the occupant. It was proposed that this question should be brought to the notice of the Juridical Subcommittee.

ARTICLE VIII, par. 4

5. In the course of the discussion on paragraph 4, concerning the use of local civilian labor, two questions were raised by the Netherlands Representative:

- (a) Was a force authorized to recruit the local labor of the receiving State and to transfer such workers to the territory of another receiving State?
- (b) What conditions would be contained in the employment contract in that event, and what status would these foreign workers have on the territory of the receiving State?

As these special cases did not fall within the scope of this Agreement, it was agreed that they should not be considered.

ARTICLE VIII, par. 5

6. In reply to a question raised by the Norwegian Representative, the Chairman interpreted paragraph 5 as follows: the receiving State

could grant the members of a force and its civilian component the same facilities as those granted to the members of its own forces or to comparable civilians. This provision laid no obligation on it to do so, however.

ARTICLE VIII, par. 6

7. The French Representative pointed out that this paragraph did not imply that the forces of a sending State would enjoy the same travelling concessions on the French railways as members of the French armed forces.

ARTICLE VIII, par. 8

8. On the proposal of the French Representative, it was agreed to separate the last part of paragraph 8, beginning with the words "except goods imported," and to deal with this question under Article X.

9. It was also agreed that the beginning of the paragraph should be amended in accordance with a proposal of the Netherlands Representative, and that the words "the members of a force or a civilian component" should be replaced by "a force or civilian component." This would mean that paragraph 8 would apply to the force as a whole, as well as to each of its members.

10. The Subcommittee:

- (1) took note of the above comments;
- (2) agreed to amend the text of Article VIII of the draft submitted by the United States Representative, in accordance with the above comments;
- (3) agreed to submit the last sentence of paragraph 3 of Article VIII to the Juridical Subcommittee, drawing its attention to the difference between this wording and the text of Article 11, par. 3 (last sentence) of the Western Union Agreement.

II. Consideration of Article IX.²

11. The Chairman proposed that Article IX should deal with fiscal questions arising in the case of members of forces, civilian components, and their dependents during their stay on the territory of the receiving State; the points relating to entry into and departure from the receiving State would be dealt with under Article X. Paragraph 1(b) should therefore be separated from Article IX.

12. The Chairman invited the United States Representative to explain the significance of the term "personal property taxes," appearing in paragraph 1(c).

² See note 1, *supra*.

13. The United States Representative said that the basis of the personal property tax was all property exclusive of real estate; it therefore included shares, bonds, government stocks, etc.

14. It emerged from the discussion that the personal property tax was a tax on personal estate. The Chairman ascertained that similar taxes were imposed in a number of other countries. It was therefore agreed to amend the wording of paragraph 1(c), in order to cover the various cases which might arise.

15. In connection with the last sentence of paragraph 1 (beginning with the words "In determining whether a person"), the following amendments were made:

- (a) The words "members of a contingent" were replaced by "personnel," thus extending the application of the paragraph.
- (b) In the English text, the words "of a member" were included after "employment."
- (c) This last sentence of paragraph 1 became paragraph 2. The following paragraphs were renumbered accordingly.

16. As the Canadian Representatives had not yet received any instructions on this point, he was obliged to reserve the view of his Government with respect to dependents.

ARTICLE IX, par. 2

17. The Chairman pointed out that the extension of paragraph 1(c) to cover the civilian component and dependents raised the question whether death duties were related to domicile or residence of the *de cujus*.

18. The Belgian Representative stated that in Belgium death duties were related to the residence and not the domicile.

19. It was agreed that these points would be the subject of a discussion in connection with income-tax questions.

20. The Subcommittee:

- (4) agreed to introduce the above amendments into the redraft;
- (5) agreed to reconsider Article IX at a joint meeting with the fiscal experts.

MS(F)-R(51) 3

Summary Record of a Meeting of the Working Group on Status (Financial Subcommittee), 14 February 1951

Consideration of Article VII.¹

1. Following the Chairman's statement on Article VII, paragraphs 3 and 4, the Subcommittee:

¹ Reference: MS-D(51) 4(R) (12 February 1951).

- (1) agreed to deal only with the questions within its competence, namely Article VII, paragraph 4(b), since the other paragraphs contained in that Article fall within the competence of the Juridical Subcommittee;
- (2) agreed to submit to the Juridical Subcommittee the proposal of the Netherlands Representative to the effect that the new text should cover contracts concluded by members of a foreign force in the course of their duties, as is provided in Article 8, paragraph 7, of the Western Union Agreement.

2. The Chairman drew the attention of the Subcommittee to the fact that the redraft of Article VII differed from the draft submitted by the United States Representative, in that paragraph 4(b) provided that the sending State should contribute to the payment of compensation; bilateral negotiations might be entered into for this purpose whenever the cost incurred by the receiving State became unduly burdensome. The Chairman then requested the delegations to express their views on the draft submitted by the United States Delegation.

3. The Belgian Representative could not support the draft submitted by the United States Representative, since this draft provided that in the first instance the receiving State should bear the total financial burden arising out of the compensation, reserving to a later stage the final settlement of those expenses at the time of the distribution of the overall financial burden with respect to the defense of the North Atlantic countries. The compensation thus paid by the receiving State would represent an installment of its contribution to the common defense burden.

4. The reasons for which the Belgian Representative was unable to support the United States draft may be summarized as follows:

- (a) First, it must be borne in mind that the sending State would be induced to exercise stricter supervision over its nationals by the obligation to bear immediately a share of the compensation.
- (b) Secondly, in relation to the nationals of the receiving State, it is important that members of foreign forces should not be laid open to the accusation of frivolity, as a result of the financial system adopted.
- (c) Lastly, the compensation system proposed by the United States Delegation presupposes that the distribution of the burden will be carried out in purely financial terms and therefore prejudices the final procedure which should be adopted. The Belgian Government is not in favor of a distribution of the common defense burden on a purely finan-

cial basis; it is desirable that this distribution should take into account concrete factors enabling the member countries to contribute to the common defense in other ways than by a financial contribution.

5. The Chairman ascertained that the views expressed by the Belgian Representative were shared by the majority of the delegations; it would appear that the draft submitted by the United States Delegation could not be adopted, either for psychological or for financial reasons. He invited the Representatives to put forward new proposals which they might have in mind.

6. The French Representative made two alternative proposals:

- (a) The first, which was probably the more suitable of the two, consisted of an automatic distribution of the financial burden arising out of the settlement of claims on the basis of percentages previously decided by common agreement. This procedure resembled the one adopted by the Western Union Agreement. It was only provisional and in no way prejudiced the final distribution of the common defense burden as a whole.
- (b) The second proposal envisaged a distribution of the burden which would vary in each case; it would be carried out either on a bilateral basis, when the receiving and sending States were the only States involved—or on a multilateral basis, when several sending States were responsible:
 - (i) in the first case, the receiving State would meet 25% of the burden, and the sending State 75%;
 - (ii) in the second case, the financial burden would be distributed equally among the receiving State and the various sending States responsible.

This procedure made provision for arbitration, in the event of disputes, which might be entrusted to SHAPE.

7. The Netherlands Representative also made a proposal to be considered if the French Delegation's suggestions were rejected. Its effect would be to lay upon the sending State the responsibility for meeting claims for all damages caused by members of its armed forces.

8. The Subcommittee:

- (3) took note of the French and Netherlands proposals;
- (4) agreed that the first French proposal would be the subject of informal conversations before being set out in a separate document;

- (5) instructed the Secretary to circulate the text of the second French proposal;²
- (6) agreed to reconsider the problem of the distribution of the financial burden after the meeting of the Working Group on the International Budget which would be held on 19 February 1951;
- (7) agreed to consider the proposal put forward by the Netherlands Delegation if no agreement were reached on one of the two previous proposals.

9. The French Representative commented that the draft submitted by the United States Delegation made no reference to the case of damages to the property of a receiving State which was not used for military purposes.

10. In the opinion of the United States Representative, damages of this kind should be the subject of bilateral negotiations, either between the military authorities or through the usual diplomatic channels. He agreed that no provision comparable to Article 8, par. 6, of the Western Union Agreement appeared in the draft.

11. The Italian Representative expressed the view that this point should be raised in the Juridical Subcommittee and stated that he would make a proposal on the subject in that Subcommittee.

12. The French Representative pointed out, however, that the financial aspects of this Article could be discussed immediately, and he suggested that two paragraphs should be included in Article VII as follows:

In the case of damage to State property, which is not excluded by the provisions of paragraph 1 above and not covered by paragraph 2 above, the amount of the damage will be assessed by an arbitrator nominated by the receiving State, after consultation with the other Contracting Parties concerned, and chosen from amongst its own nationals who hold or who have held high judicial office, and will be distributed in accordance with paragraph 4(b).

This paragraph does not apply if the amount of the damage thus assessed is less than 1500 United States dollars or the equivalent of this sum in the currency of the receiving State at the official rate of exchange on the day on which the arbitrator makes his award.

13. The Subcommittee:

- (8) agreed to consider at the next meeting the question of damages to State property referred to by the above French proposal;
- (9) agreed to draw the attention of the Juridical Subcommittee to the juridical aspect of this matter.

² MS-D(51) 6 (14 February 1951).

MS(F)-R(51) 4

Summary Record of a Meeting of the Working Group on Status (Financial Subcommittee), 14 February 1951*I. Consideration of Article IX of the United States Draft.*¹

ARTICLE IX, par. 1(a)

1. After the Chairman had invited the United States Representative to indicate amendments in his draft, consequent upon the new definition of a contingent, he said that, insofar as the United Kingdom was concerned, the fact that dependents were included in the provisions of the Article gave rise to difficulty, since it could not be claimed that dependents were on NATO duty. After a general exchange of views, it became apparent that this point of view was almost universally held, and it was decided to strike out the reference to "dependents" in the first part of paragraph 1.

2. The Belgian Representative then drew attention to the fact that, if the present wording of the United States draft were allowed to stand, there would undoubtedly be cases in which people normally resident in a receiving State, who returned to that State as members of a force or of a civilian component of another State, would be liable to taxation on their pay and allowances by their own Government and still be liable to taxation in the receiving State as residents. Although such cases would be few in number, it was undesirable that this should occur. The possibility of obviating this either by a multilateral agreement such as the one being drafted or by bilateral agreements between Governments was considered. The French Representative said he favored the inclusion of the second sentence of Article 12, par. 1(a), of the Brussels Treaty Agreement, which would encourage bilateral agreements. The United States Representative agreed to this, and there was general agreement.

3. The Subcommittee then discussed the question of money, which did not constitute either pay or allowances, brought into a receiving State by a member of a force. This point had been excluded from the terms of Article 12 of the Brussels Treaty Agreement. From the discussion it became apparent that, if money other than pay or allowances were to be considered under this Article, there would be considerable difficulty in reaching agreement. It was pointed out that,

¹ Reference: D-D(51) 23 (23 January 1951). The discussion, however, was based on the new definitions found in Article I of MS-D(51) 5 (12 February 1951).

if the present Agreement did not cover the importation of private funds, it would not necessarily exclude members of the force or civilian component from enjoying exemption from taxation on ordinary grounds in that they were non-residents.

4. After considering whether the phrase which had previously been renumbered as paragraph 2 of Article IX was correctly placed or whether it should not come at the head of the Article, the Norwegian and United States Representatives proposed the following redraft which would, in fact, cover paragraphs 1(a), 1(c), 2 and 3 of the United States draft Article IX:

The temporary presence in the receiving State of a member of a force or civilian component shall not of itself subject him to taxation in the receiving State, either on his income or on his property, the presence of which in the receiving State is due solely to his temporary presence there, nor, in the event of his death, shall it subject his estate to a levy of death duties."

As this went considerably further than the previous draft, it was apparent from discussion that further time would be required for study, and it was agreed to reconsider this later.

5. The Subcommittee:

- (1) agreed that the redraft produced by the Norwegian and United States Delegations should be considered at the next meeting.

ARTICLE IX, par. 1(b)

6. The Subcommittee considered the United Kingdom redraft,² and it was felt that the second sentence was not entirely necessary, although it was agreed that it would emphasize a point which might not otherwise be clear.

7. The Subcommittee agreed that:

- (2) the first sentence of the United Kingdom's amendment should be included as a new paragraph 4 of Article IX;
- (3) the existing paragraph 1(b) should be deleted;
- (4) "official vehicles" should be replaced by "service vehicles" in the text.

ARTICLE IX, par. 1(c)

8. The Chairman said that as yet no new text of this subparagraph had been produced, but it seemed clear that the question of dependents would again be a matter of difficulty; and it was agreed to delete the reference to them.

9. The Subcommittee agreed that:

² MS-D(51) 7 (14 February 1951).

- (5) dependents should be excluded from the scope of the paragraph;
- (6) the question should be reconsidered after the arrival of a French expert.

ARTICLE IX, par. 3³

10. For technical reasons the Danish Representative requested that the wording of the first sentence should be: "For the purpose of administration of the estates of deceased persons and of the levy of death duties." The Chairman suggested that this should be left to the Juridical Subcommittee.

11. The Subcommittee agreed:

- (7) to pass to the Juridical Subcommittee the question of amendment suggested by the Danish Representative;
- (8) to reconsider this paragraph in the light of the Norwegian and United States redraft of the Article, referred to above.

*II. Consideration of Article X of the United States Draft.*⁴

ARTICLE X, par. 1

12. The French Representative drew attention to the difference between the present text and that of Article 13, par. 1, of the Brussels Treaty Agreement. There was general agreement that the first sentence of the Brussels Treaty Agreement should be placed in the United States draft, and also that the United States draft mentioning "seizure" was preferable to the Brussels Treaty Agreement, which did not specifically mention this part.

13. The Subcommittee agreed:

- (9) to the addition proposed by the French Representative at the beginning of paragraph (2) to include the final phrase about "seizure."

ARTICLE X, par. 2

14. The Subcommittee agreed:

- (10) that the words, "the entry, departure and use," should be replaced by the words, "temporary importation and re-exportation";

³ This is numbered as Article IX, par. 2, in the draft: D-D(51) 23 (23 January 1951). The paragraph number has been changed as a result of the action taken earlier by the Financial Subcommittee: MS(F)-R(51) 2, par. 15-17 (13 February 1951).

⁴ See note 1, *supra*.

- (11) that the word “triftyque” should be used in the English text, as it was clearly understood in the English language.

ARTICLE X, par. 3

15. The Subcommittee agreed:

- (12) that the United States draft should be approved;
- (13) that the words “sous pli scellé” in the French text should be replaced by “sous pli scellé d’un sceau officiel”;
- (14) that the words “quel que soit le grade” in the French text should be replaced by “quelle que soit la qualité.”

ARTICLE X, par. 4

16. The Chairman presented the United Kingdom redraft of paragraph 4, contained in MS-D(51) 7. The Subcommittee discussed whether the words “reasonable quantities of provisions” should be included, and it was apparent that the Representatives of those countries most likely to be receiving States were in favor of this inclusion. The United States Representative quoted an Act of Congress relating to the import of duty-free supplies for British and French troops serving in the United States⁵ and noted its reciprocal character, but he said that he would not oppose the introduction of the words “reasonable quantities.”

17. The Subcommittee agreed:

- (15) that the words “reasonable quantities” should be included in the United Kingdom redraft;
- (16) that the redraft numbered paragraph 4(a) should be approved, subject to the deletion of the words “in each contingent” in the last sentence.

MS(F)-R(51) 5

Summary Record of a Meeting of the Working Group on Status (Financial Subcommittee), 15 February 1951

I. Consideration of Article X of the Draft Agreement.¹

ARTICLE X, par. 4(a)

1. The Subcommittee, at the request of the United States Representative, agreed:

⁵ The reference appears to be to 63 Stat. 666 (1949), 19 U.S.C. § 196a (1958 ed.).

¹ References: D-D(51) 23 (23 January 1951), for the original draft; MS-

- (1) that the words "the equipment and" should be inserted between "importation" and "reasonable supplies of" in the first sentence.

ARTICLE X, par. 4(b)

2. The Subcommittee, in order to avoid confusion because of the use of the English word "duty" in two different senses, agreed:

- (2) that the word "service" should replace "duty" when military duty was implied.

ARTICLE X, par. 4(c)

3. The Subcommittee agreed:

- (3) that the sentence, "There is no obligation under this Article to grant exemption from taxes payable in respect of the use of the roads by private vehicles," should be deleted from Article IX and added to paragraph 4(c) of Article X as a second sentence.

ARTICLE X, par. 5

4. The Norwegian Representative said that the draft should take account of the fact that it might be necessary to re-export goods either to another North Atlantic Treaty country or elsewhere.

5. The Subcommittee, to meet this point, agreed:

- (4) that the first sentence of subparagraph (a) should read: "Can be re-exported freely provided that a certificate. . ."

ARTICLE X, par. 6-7

6. The Subcommittee agreed:

- (5) that these paragraphs were satisfactory.

ARTICLE X, par. 8

7. The Subcommittee, in order to bring the wording of the text into line with previous Articles, agreed:

- (6) that the phrase, "for use may be," should be replaced by: "for use in service vehicles, aircraft and vessels of a force or civilian component, may be."

II. Consideration of Article XI.²

8. The Danish Representative inquired whether a receiving State would have the right to insist that goods imported duty-free should be specially packed or marked. The point was made in discussion that this was done by several States already, but it was agreed that a receiving State had the right so to demand.

9. The Subcommittee agreed:

(7) that the text as drafted was satisfactory.

III. Consideration of Article XII.³

ARTICLE XII, par. 1-3

10. The Subcommittee agreed:

(8) that the texts of these paragraphs were satisfactory, subject to the deletion of the word "contingent" throughout and its replacement in paragraph 1 by the words "sending State," in paragraph 2 by "force," and in paragraph 3 by "force or civilian component and their dependents."

ARTICLE XII, par. 4(new)

11. The Belgian Representative said that he considered that it was essential that the wording of Article 15, par. 4, of the Brussels Treaty Agreement should be reproduced in the present Agreement. This point of view received general approval in discussion.

12. The Subcommittee agreed:

(9) that the text of Article 15, par. 4, of the Brussels Treaty Agreement should form paragraph 4 of Article XII.

IV. Consideration of Article XIII.⁴

13. The Subcommittee agreed:

(10) that the text of Article 16, par. 1, of the Brussels Treaty Agreement was preferable to the United States draft.

(11) that paragraph 1 should read: "Members of a force or a civilian component shall remain subject to the foreign exchange regulations of the sending State and are also subject to the regulations of the receiving State."

(12) that the last phrase of paragraph 2 should read: "applicable to members of a force or civilian component."

² Reference: D-D(51) 23 (23 January 1951).

³ See note 2, *supra*.

⁴ See note 2, *supra*.

V. Future Business.

14. It was proposed that the Subcommittee should not hold a further meeting until the following week, when Delegations would have had instructions from their Governments about the Norwegian redraft⁵ proposed for Article IX. The Belgian and French Representatives were of the opinion that a useful discussion could be had the following day to narrow points of difference, particularly as a French expert was now present.

15. At the suggestion of the Chairman, it was agreed that Articles VIII and X-XIII should be redrafted to take account of amendments agreed, without delay, and that the following day these should be considered. Thereafter, in view of the general opinion of the meeting, he agreed that Article IX should be discussed.

16. The Subcommittee approved the Chairman's proposal and broke up into drafting committees to prepare new texts of Articles VIII and X-XIII.

MS(F)-R(51) 6

Summary Record of a Meeting of the Working Group on Status (Financial Subcommittee), 16 February 1951

I. Apology for Absence.

1. The Icelandic Representative sent a message to the Chairman, apologizing for his inability to attend.

II. Articles VIII and X-XIII.¹

2. The Subcommittee considered MS-D(51) 9, containing the revised text of Articles VIII and X-XIII of the draft Agreement. A number of amendments listed in the Annex to this Record were approved to bring the English and French texts into line and to improve them generally.

3. The Canadian Representative drew attention to the use of the words "sole responsibility" used in Article VIII, par. 3, and inquired whether this meant that the receiving State had an absolute right to allocate accommodation to the force of a sending State. The Subcommittee after discussion agreed that nothing in the Article as drafted prevented the receiving State from delegating such of its powers in this field as it wished.

⁵ See MS(F)-R(51) 6, par. 5, note 1 (16 February 1951).

¹ Reference: MS-D(51) 9 (16 February 1951).

4. It was generally agreed that Article XIII should refer, in both its paragraphs, to the same categories of people, i.e., a force, a civilian element, the members thereof as well as their dependents.

III. Article IX.

5. The Subcommittee had before them a Norwegian redraft and a French redraft of this Article. (Neither of these documents has been reproduced as an official document).²

6. The Chairman said that, in his opinion, what was required was a short text which was quite clear to the layman and which did not entail a knowledge of the income-tax laws of the receiving State. In this respect he liked the form of the Norwegian draft.

7. The United States Representative, with the agreement of the Norwegian Representative, suggested that the latter's text should be amended to read: "The temporary presence in the receiving State of a member of a force or a civilian component shall *constitute neither domicile nor residence therein and shall not* of itself. . . ."

8. The Chairman then invited the French Delegation to explain their proposals. M. Serre then explained the terms of the French amendment.

9. In the discussion which followed, the Chairman drew attention to the fact that the Norwegian draft appeared to extend indefinitely the period of "temporary residence" so long as the person concerned was on NATO duty. The position of a person who was either a national or a resident of the receiving State before he arrived in that State on NATO duty was also discussed. It was the general view of the Subcommittee that the Article should be drafted in such a way that no one avoided paying tax altogether and that therefore when a member of a force, etc., went to a receiving State he should retain his previous residence. This clearly raised points of difficulty in domestic legislation for some delegates.

10. The Belgian Representative drew attention to a Convention

² The copy of MS(F)-R(51) 6 in the Office of the General Counsel, Department of Defense, however, has attached to it a page with the following pencilled notation: "Article X (Norwegian-American text). The temporary presence in the receiving State of a member of a force or civilian component shall constitute neither residence and domicile therein, and shall not of itself subject him to taxation in the receiving State, either on his income or on his property the presence of which in the receiving State is due to his temporary presence there, nor, in the event of his death, shall it subject his estate to a levy of death duties." The designation of this text as "Norwegian-American" is undoubtedly due to the amendment suggested by the United States Representative in MS(F)-R(51) 6, par. 7 (16 February 1951). Cf. MS(F)-R(51) 4, par. 4 (14 February 1951).

relating to the taxation of the staffs of International Organizations which had recently been drawn up by experts in Paris, which dealt only with pay and allowances. This seemed to the members of the Subcommittee to set a datum beyond which they could not go.

11. It was eventually decided that there should be a small informal meeting that afternoon. The Belgian Representative suggested that a questionnaire should be drawn up so that delegations could ask specific questions of their Governments. It was hoped that when delegates had their instructions on points of principle it would be possible to draw up a new text.

ANNEX

12. The Subcommittee considered the revised text of Articles VIII and X-XIII contained in MS-D(51) 9, and the following amendments were agreed:

- (a) Article VIII, par. 3. Insert in the first sentence of the English text the words "which it requires" after "buildings and grounds." In the French text, for "armee" read "armée."
- (b) Article VIII, par. 7. In the English text, delete "5" and insert "5 and" after the word "necessary."
- (c) Article VIII, par. 8. Delete first line of English text, and substitute: "Neither a force, nor a civilian component, nor the members thereof nor their dependents shall." In the French text delete the words "ni leurs membres," and replace by: "ni les membres de ceux-ci ni les personnes à charge." For "exception" in the French text, read "exemption."
- (d) Article X, par. 1. In the second line after "component" add: "as well as their dependents." In the French text, add after "ont" the word "notamment."
- (e) Article X, par. 2. In the French text, amend "tryptique" to read "triptyque."
- (f) Article X, par. 4. In the English text at the beginning of the second sentence, for "This is" read "There is."
- (g) Article X, par. 12. In the English text, insert after "In" the words "paragraph 1-10 of."
- (h) Article XIII, par. 1. Amend the first line to read: "A force, a civilian component and the members thereof as well as their dependents shall remain." Amend similarly the French text.
- (i) Article XIII, par. 2. Delete from "force or" to the end of the paragraph, and substitute: "force or a civilian com-

ponent and the members thereof, as well as their dependents." In the French text after "élément civil" add the words "aux membres de ceux-ci."

- (j) Annex A. In the French text, delete "apparent de T.S.F. sur la voiture" and substitute "Matériel de transmission fixé à demeure."

MS(J)-R(51) 1

Summary Record of a Meeting of the Working Group on Status (Juridical Subcommittee), 8 February 1951

I. Summary Records of Meetings of the Working Group.¹

1. The Chairman² invited the members of the Working Group to inform the Secretary in writing of any amendments which they might wish to have made to the Summary Records of the first four meetings of the Working Group.³

II. Statement by the Icelandic Representative.

2. The Icelandic Representative stated that he was in a position to make known the official attitude of his Government. Neither the draft proposed by the United States Delegation nor the Western Union Agreement was acceptable to the Icelandic Government, as a number of points in the two drafts did not apply to Iceland because of its special position with NATO. Discussions had been initiated between the Icelandic Government and the Standing Group in Washington regarding the problems of Icelandic defense in peace time. As a result of these discussions it had been decided to commence negotiations in Iceland in the very near future; the Standing Group had designated a representative for this purpose. Correspondence between the Icelandic Government and the military side of NATO in Washington definitely established the fact that these negotiations should also cover the points arising from Iceland's special position in regard to services rendered in time of peace to foreign forces. The Icelandic Government therefore felt that they could not make any

¹ Previous references: MS-R(51) 1-4 (29-31 January 1951).

² Mr. G. W. Lambert, United Kingdom Representative, served as Chairman of all the meetings of the Juridical Subcommittee except the fifth: MS(J)-R(51) 1-4 (8-16 February 1951); MS(J)-R(51) 6-9 (22-23 February 1951). At the fifth meeting, the Chairman was Brig. Gen. C. E. Snow, United States Representative: MS(J)-R(51) 5 (17 February 1951).

³ Any official corrections or addenda to the Summary Records or Documents have been made by the editor without further notation.

useful contribution to the work of the Working Group. The Icelandic Government wished however to follow the discussions taking place in the Working Group and its subcommittees.

*III. Consideration of Articles I-VI of the Draft Agreement.*⁴

3. The Chairman proposed that Articles I-VI of the draft submitted by the United States Delegation should be considered separately one after the other. It would perhaps be possible to adopt a new draft which would then be submitted to Governments for their final approval.

PREAMBLE AND TITLE

4. The Canadian Representative wished to delete the words "privileges" and "immunities" from the title of the Agreement. He proposed that a title similar to that of the Western Union Agreement should be used.

ARTICLE I

5. The Chairman said that, with a view to facilitating the consideration of Article I, he had prepared a document⁵ setting out the difficulties which might be raised by the inclusion of civilians in the definition of "contingent." He proposed that this question should be discussed in the course of the consideration of the various articles of the draft. It would then be possible to adopt a common definition.

6. The United States Representative stated that he was prepared to replace the word "contingent" by some term similar to that employed in the Western Union Agreement, such as "foreign force."

7. With regard to civilians accompanying the armed forces, the United States Representative agreed that it would be preferable not to include them in the definition of "armed forces"; they should however be covered by a separate definition. The definition of the "armed forces" should be broad enough to include all the military personnel of the sending State who were stationed or in transit in the territory of another member State. The definition of "civilians" should apply to all civilian components of the armed forces, whether they were employed by the armed forces or acting under orders; any reference to military law would thus be deleted—see MS-R(51) 2, par. 3 and 9.

⁴ References: D-D(51) 23 (23 February 1951), for the United States draft; Cmd. 7868 (21 December 1949) for the Brussels Treaty Status (Western Union Agreement).

⁵ MS-D(51) 3 (7 February 1951).

8. Referring to the definition of "armed forces," the Belgian Representative enquired whether the Agreement would apply to every member of the armed forces of a sending State, for whatever reason he might be present in the territory of the receiving State. Should a distinction be drawn between his presence for the purpose of carrying out duties under the North Atlantic Treaty and for any other purpose? The Western Union Agreement (Article 1(a) and (d)) was valid only if the armed force was stationed in a territory of the receiving State "in the execution of duties under the Brussels Treaty."

9. In the opinion of the United States Representative, the draft did not draw such a distinction, but applied to all foreign forces, whatever the purpose of their presence in the territory of the receiving State.

10. The Netherlands Representative raised the question of the application of the Agreement to the military attaches of the various sending States, who enjoyed diplomatic privileges which were generally more extensive than those provided in the draft. This question would be considered later.

11. The Canadian Representative proposed that the Preamble, or the Article dealing with definitions, should state that the Agreement applied to all armed forces, for whatever purpose they might be stationed in the territory of the receiving State.

12. The United States Representative proposed to delete the reference to the case of dual nationality in Article I(a) of his draft and not to provide an exception for that case. The Agreement should only apply to civilians when they were [not] nationals of the receiving State.

13. The Norwegian Representative recalled the special position of his country, which was bound by an earlier agreement and could not admit foreign forces into its territory nor grant bases to a foreign power. His country had no objection to admitting military missions, and in this sense Norway might become a receiving State.

14. The Portuguese Representative stated that facilities had been granted to the United States Government to use the Azores as a military base. A special Agreement existed between Portugal and the United States, which provided for the presence of United States troops in the Azores; the present Agreement would not therefore apply in this case.

15. The Chairman proposed that the term "foreign force" should be altered; the word "foreign" was inappropriate where the relations between Canada and the United Kingdom were concerned. A better term would be "visiting force."

16. The French Representative proposed that the term "military

force" should be used. It would be defined as "a force maintained by a Contracting Party and which is stationed on duty in the territory of another Contracting Party."

17. The Chairman could not accept the adjective "military," which, in English, "excluded the Navy and Air Force."

18. The Norwegian Representative would not be able to accept a definition of "armed force" or "military force" which would imply consent to admit foreign forces into Norwegian territory, in view of the special position of his country.

19. The Subcommittee:

- (1) agreed to charge a drafting committee with the preparation of a new draft of Article I, taking into account the above comments.

ARTICLE 2 (Brussels Status)

20. The Chairman pointed out that Article 2 of the Western Union Agreement distinguished between "personnel on permanent duty" and "personnel on temporary duty." In this connection, he stated that a draft Agreement was at present under consideration by the United Kingdom Departments which would apply to the international staff of NATO as well as to the various delegations.

21. The Subcommittee:

- (2) agreed not to repeat Article 2 of the Western Union Agreement in the new Agreement.

ARTICLE II, par. 1

22. The Chairman said that the United Kingdom had some difficulty in providing an exception to immigration inspection in the Agreement.

23. It emerged from the ensuing discussion that Article II, par. 1, did not require the abolition of existing formalities—in particular, the use of the "landing card"—but sought to avoid any difficulty which might arise from legislation governing immigration. Paragraph 2 of Article II provided, moreover, that certain documents would be required by the receiving State.

ARTICLE II, par. 2

24. Before embarking on the study of articles relating to the documents required in respect of members of the armed forces, the Juridical Subcommittee considered the special case of civilians accom-

panying the armed forces. In the course of the ensuing discussion, the following comments were made.

25. In the case of the United Kingdom, it would be difficult to grant the same privileges to civilians as to members of the forces. Civilians would have to hold a passport, although it was not necessary to require a visa in their case; but an identity card was not regarded as sufficient. Civilians would also have to undertake not to accept civilian employment during their visit to the United Kingdom.

26. The French Representative wished to see closer attention given to the case of civilians accompanying the armed forces and who were nationals of a different sending State.

27. The Subcommittee:

- (3) agreed to study the above questions in the course of consideration of the special position of civilians accompanying the armed forces.

ARTICLE II, par. 2(a)

28. The Chairman drew the attention of the Subcommittee to Annex A of the Western Union Agreement, which gave a model identity card for use by the forces of the Western Union countries. It emerged from the ensuing discussion that it would be sufficient if the members of the forces were in possession of a national identity card issued by the military authorities. That identity card would be communicated to the member countries, in order to enable the immigration authorities of each country to familiarize themselves with it.

ARTICLE II, par. 2(b)

29. The Western Union Agreement provided (Article 3, par. 2) that individual or collective movement orders would be "issued by the Service Minister concerned of the sending State." It did not seem necessary to repeat those details, and it would be sufficient to provide that a movement order would be issued by the competent services of the sending State. It was also agreed that these movement orders would be worded in the language of the sending State and in French and English. The reference to military law would also be omitted. Lastly, the word "signed" would be replaced by "counter-signed." The formality requiring the countersignature of an appropriate representative of the receiving State signified that, if it was considered necessary, the latter could refuse entry to military or civilian forces.

MS(J)-R(51) 2

Summary Record of a Meeting of the Working Group on Status (Juridical Subcommittee), 8 February 1951*I. Consideration of Articles I-VI of the Draft Agreement.*¹

ARTICLE III

1. The Chairman stated the United Kingdom position with respect to driving permits. There were two cases to consider: (a) if the visiting driver held an international driving license, this license was accepted as valid in Great Britain, without a further driving test or fee; (b) if the visiting driver held a driving license issued by his national authorities, the United Kingdom required him to take out a British driving license. No further driving test was required, but the stipulated fee of 5 shillings was charged. When the provisions relating to driving permits of the Convention on Road Traffic,² signed in Geneva on 19 September 1949, came into force, this fee would no longer be required. The United Kingdom Representative therefore considered that it would be desirable to make no reference in the present Agreement (see Article III, first and last sentences) to the fee required when the driving permit was issued, on the understanding that this was a temporary measure. It would otherwise be necessary to alter existing legislation, which would call for Parliamentary action and delay the implementation of the other provisions of the Agreement.

2. The United States Representative was obliged to reserve his Government's view on this point.

3. Referring to the case of civilians and dependents, the Chairman pointed out that they were in the same position, whether they held an international or national driving license.

4. The Subcommittee:

- (1) agreed to reconsider the provisions of Article III at a later date.

ARTICLE IV, par. 1

5. With regard to the wearing of uniform two opinions were expressed:

¹ Discussion continued from first meeting of the Juridical Subcommittee: MS(J)-R(51) 1 (8 February 1951). References: D-D(51) 23 (23 January 1951); and MS-D(51) 2 (6 February 1951), for the discussion of Article VI (on criminal jurisdiction) in par. 10-17 of the present Summary Record.

² TIAS 2487; 3 UST 3008; 125 UNTS 22.

- (a) The Agreement should contain specific rules; any exception to those rules should be the subject of consultations between the military authorities of the sending State and those of the receiving State.
 - (b) The Agreement should be restricted to the general principle that members of the armed forces would normally wear uniform.
6. The Subcommittee:
- (2) agreed that the drafting committee should reconsider the provisions of this Article.

ARTICLE IV, par. 2

7. The Subcommittee:
- (3) agreed to retain Article IV, par. 2, in its present form, leaving SHAPE to specify the distinctive nationality marks which should appear on service vehicles.

ARTICLE V, par. 1

8. As a general rule, local authorities had no right to intervene in matters concerning the carriage of arms by the members of a foreign force on duty; the members of the foreign force should, however, be subject to local regulations when not on duty. If, for special reasons, the local authorities wished to prevent the members of a foreign force from carrying arms, this should be the subject of a friendly agreement with the military authorities of the sending State: a provision to that effect could not be included in the present Agreement. The words "on condition that this is authorised by their orders" should be interpreted as covering all cases.

9. The Subcommittee:

- (4) agreed that Article V, par. 1, would be the subject of discussion on the drafting committee.

ARTICLE VI (redraft)³

10. The Chairman invited each Representative to express his view on the rights which might be reserved to the . . .

11. The Belgian Representative wished to reserve judgment only with respect to cases where the victim of the offense was a national

³ Reference: MS-D(51) 2 (6 February 1951)—a redraft of Article VI as contained in D-D(51) 23 (23 January 1951).

of the receiving State, even if the offense was committed by a member of an armed force on duty.⁴

12. The French Representative, summarizing Article VI, pointed out that paragraphs 1 and 2 set out the two principles underlying the Article as a whole, namely: the right of the sending State to exercise jurisdiction in the receiving State, and the principle that the laws of the receiving State were applicable to the members of the armed forces of the sending State. Paragraphs 2, 4 and 5 were based on these two principles and laid down either the exclusive jurisdiction of the sending State, in the case, for example, of treason, sabotage, etc.—and the violation of any law of the sending State—or the concurrent jurisdiction of the sending State and the receiving State. In this latter case, either the receiving State or the sending State had the primary right of jurisdiction: with respect to offenses committed on duty or offenses against the property of the sending State or against a member of the armed forces of the sending State, it would be the sending State which would have the primary right to exercise jurisdiction; in other cases, it would be the receiving State.

13. The French Representative was able to accept these two principles and supported the second draft prepared by the United States Representative. He recalled however that it would be necessary to define more clearly the concept of a member of an armed force “on duty.”

14. The Italian Representative considered that it would be preferable to present the case of the exclusive jurisdiction of the sending State as an exception to the rule of the right of jurisdiction of the receiving State. It appeared to him to be desirable to alter the form of Article VI, without however altering the substance.

15. The Netherlands Representative did not agree with the Italian view. He regarded the rule of the right of jurisdiction of the receiving State to be an exception to the principle of the right of jurisdiction of the sending State; military acts fell normally within the competence of the military authorities. In his opinion, this was the rule adopted by international law.

16. The Belgian Representative did not consider this rule of international law to be applicable in the present case. There was no doubt a proviso which recognized that the sending State exercised exclusive jurisdiction over the members of its armed forces stationed abroad; but as that proviso implied the possibility of conflicting sovereignty, it could not apply to the present case, in which twelve countries by international agreement were committed to respect common rules.

⁴ See MS-D(51) 8 (16 February 1951).

17. The United States Representative considered that this was a difficulty of principle which was more apparent than real. The agreement on a common status would enable these difficulties arising out of international law to be overcome.

18. The Subcommittee:

- (5) agreed that the following meeting would take place on Thursday, 15 February 1951;
- (6) agreed to consider the first six articles at that meeting in the light of the above comments.

MS(J)-R(51) 3

Summary Record of a Meeting of the Working Group on Status (Juridical Subcommittee), 15 February 1951

I. Consideration of Article VII of the Draft Agreement.¹

DAMAGES TO STATE PROPERTY; MARITIME DAMAGES

1. After stating the subject of Article VII, the Chairman recalled that this Article had already been the subject of a preliminary discussion by the Financial Subcommittee at its meeting² on 13 February 1951. At that meeting divergent views had been expressed on the interpretation of Article 8 of the Western Union Agreement, which was chiefly concerned with the waiver of claims for damages to vessels owned and used by the State. In particular, the last sentence of Article 8, par. 2(a), of the Western Union Agreement had given rise to disagreement.

2. The Belgian Representative, who had been present at the meetings at which the Western Union Agreement was prepared, recalled that the sentence, "These claims will be brought against the authorities of the Party to whom the vessel belongs," had been inserted at the request of the United Kingdom Representative. It had been recognized that it was not within the scope of the Agreement to specify which courts would be competent to give judgment with respect to claims of this kind; international conventions on this matter were in existence, which should be referred to—for example, the international convention on the unification of certain regulations concerning the immunities of state vessels, which had been signed in Brussels in April 1926. It had therefore been the opinion of the United Kingdom Delegation that there was no departure from international conventions in matters concerning collisions, salvage and

¹ Reference: MS-D(51) 4(R) (12 February 1951).

² See MS(F)-R(51) 1 (13 February 1951).

rescue at sea. The sentence which the United Kingdom Delegation had requested should be added to the text merely signified that the claim should first be submitted to the State, in order to enable it to come to an arrangement. It would therefore appear that claims in respect of maritime damages were excluded from Article 8 of the Western Union Agreement.

3. The Canadian Representative considered that it would be preferable that the mutual waiver of claims in the case covered by Article VII, par. 1, of the draft submitted by the United States Delegation should apply to damages caused on land and in the air, as well as to those caused at sea.

4. The Chairman noted that the Western Union Agreement completely disregarded this category of damages. Nevertheless, he proposed that maritime damages should be excluded from paragraph 1 and should be the subject of special discussion, the results of which would be incorporated into a new paragraph.

5. The United States Representative was in favor of the Canadian Representative's proposal and considered that it was important that the new Agreement should cover maritime damages. A clause could no doubt be easily inserted to provide a mutual waiver of damages caused to State vessels. This would presuppose a precise definition of the term "State vessel," in order to exclude all other maritime damages from the application of this Agreement.

6. The Canadian Representative pointed out that, in this case, it would be necessary for the definition to take into account only vessels belonging to military, naval and air Ministries, excluding, for example, vessels belonging to commercial Departments. Warships and troop transports would thus be included in the definition, whereas the vessels of maritime commercial companies would be excluded.

7. The Subcommittee:

- (1) agreed to amend the wording of Article VII, in order to make paragraph 1 applicable to State vessels;
- (2) agreed to specify the definition of "State vessel" in the Agreement, in the light of the above comments.

8. The Chairman recalled that, at the meeting of the Financial Subcommittee which took place on Wednesday, 14 February 1951, the French Representative had made a proposal regarding the waiver of claims in the case of damages to State property. The Financial Subcommittee had drawn the attention of the Juridical Subcommittee to this question.³

³ See MS(F)-R(51) 3, par. 13-14 (14 February 1951).

9. The Subcommittee:

- (3) agreed that the Agreement should include a text similar to Article 8, par. 6, of the Western Union Agreement, which was also the subject of a proposal by the French Delegation;⁴
- (4) agreed to consider at a subsequent meeting the first paragraph of the French proposal, referring to certain categories of damage to State property.⁵

ARTICLE VII, par. 4(a)

10. The Chairman drew the attention of the Subcommittee to paragraph 4(a) and proposed that the words "the claimant" should be deleted, since it was irregular to restrict the rights of the claimant.

11. The Italian Representative proposed a procedure concerning the settlement of claims for damages, which he thought would be more expeditious. Cases falling within the application of the Agreement would be brought before a joint court composed as follows: one representative of the sending State—or of each sending State—and one representative of the receiving State, with a high-ranking magistrate of the receiving State in the chair. A procedure of this kind would ensure the expeditious settlement of military questions and, moreover, would make it possible to establish a uniform system of jurisprudence in all receiving States. Lastly, in view of the fact that the receiving State would probably have to assume part of the financial burden arising out of the settlement of claims, it was reasonable to provide that it should be represented before the court which pronounced judgment in these matters.

12. It emerged from the discussion that the Italian Representative's suggestion would be liable to create fresh difficulties, and the proposal as a whole was rejected.

13. The Chairman pointed out that the procedure at present provided in paragraph 4(a) did not exclude any special procedure which might be suitable in the case of any given receiving State. A receiving State would thus be able to propose that a joint court should be set up, as suggested by the Italian Representative.

14. The Netherlands Representative commented that paragraph 4 referred to "non-combatant activities." He requested clarification of the exact meaning of this term.

15. The United States Representative replied that this passage was

⁴ See MS(F)-R(51) 3, par. 13-14 (14 February 1951).

⁵ See MS(F)-R(51) 3, par. 12 (14 February 1951).

a reference to the principle that damages occurring during combat shall never constitute grounds for judicial action.

16. It was proposed that the English expression "noncombatant" should be replaced by "not incident to combat." This amendment did not necessitate any amendment in the corresponding passage in the French text.

17. At the request of the Canadian Representative, it was agreed that paragraph 4 would also apply to civilian components. The text was accordingly amended as follows: the words "and their civilian component" should be inserted after "members of the forces of a sending State."

OTHER COMMENTS

18. The Danish Representative proposed that the last sentence of paragraph 3 should be amended as follows: the phrase "shall be immune from the civil jurisdiction of the receiving State" should be replaced by "shall be immune from the process of the civil courts of the receiving State."

19. In reply to a question raised by the French Representative, the Chairman stated that in the case of civil actions brought against a civilian or military member of a force, but with respect to which an exception was provided under paragraph 3, the Government of the sending State would stand behind the defendant and would be responsible for the whole trial. Nevertheless, this would not prevent the members of a force or civilian component, who were responsible for the action committed or omitted with respect to which the action had been brought, from appearing as witnesses at the trial. It was thus the member of the force or civilian component who was officially the defendant, although it was the sending State itself which would assume the defense.

20. The Netherlands Representative raised the question of the application of the Agreement to overseas territories.

21. The Subcommittee:

(5) agreed not to deal with this question in connection with Article VII, but to examine it in connection with the Agreement as a whole, when the general clauses relating to its application were in course of preparation;

(6) took note that the Chairman would prepare a redraft of this Article in the light of the above considerations.

MS(J)-R(51) 4

Summary Record of a Meeting of the Working Group on Status (Juridical Subcommittee),¹ 16 February 1951*I. Consideration of Article I (Definitions).²*

1. The Chairman invited the Representatives to express their views on the definitions contained in Article I of the draft Agreement.

2. In reply to a question by the Danish Representative, the United States Representative mentioned, by way of example, the following categories of persons who would be included within the definition of the term "civilian component":—construction workers, canteen personnel, specialists, office personnel, stenographers, etc. Red Cross workers, entertainers, YMCA personnel were excluded from this definition. The categories of persons belonging to the civilian component would, of course, possess identity cards, such as were provided for in the case of the armed forces. Moreover, the receiving State would doubtless wish to receive at regular intervals a list of the names of civilians accompanying the armed forces. The receiving State could also regulate the entry of members of the civilian component into its territory by means of its immigration formalities (for example, the "landing card").

3. The Subcommittee:

(1) approved the text of Article I of the draft.

II. Article VI.³

ARTICLE VI, par. 1

4. The Chairman drew the attention of the Subcommittee to the memorandum submitted by the Norwegian Representative in reference to the death penalty.⁴

5. The rights of the receiving State in regard to the execution of the death penalty were recognized by all the members of the Subcommittee. It would only be necessary to add to the text of paragraph 1 a provision to this effect. The following wording was proposed: "Death sentences, however, shall not be carried out in the receiving State if the legislation of the receiving State does not provide for such punishment."

¹ The English version of MS(J)-R(51) 4 has been translated by the editor from the original French text, no official English translation having ever been made.

² Reference: MS-D(51) 5 (12 February 1951).

³ Reference: MS-D(51) 5 (12 February 1951).

⁴ MS-D(51) 10 (16 February 1951).

6. Paragraph 1 refers to the military authorities of the sending State. It would be necessary to modify the definition of these, contained in Article I, so that it could include the judicial authorities, even civilian, who might be brought within the territory of the receiving State for the application of the present Agreement.

7. The Subcommittee:

- (2) agreed to modify the definition of "military authorities of the sending State" so as to extend it to the judicial authorities of that State.

ARTICLE VI, par. 2

8. The French Representative noted that the concept of "official secrets" did not exist in French law, which provided only against the violation of secrets relating to the national defense. He proposed that paragraph 2(b) should be amended accordingly.

9. The Subcommittee:

- (3) agreed to add to paragraph 2(b) the words: "or secrets relating to the national defence of that State."

10. The Canadian Representative suggested that, in the first sentence of paragraph 2, the words "shall have exclusive jurisdiction" should be replaced by the words "shall exercise exclusive jurisdiction."

11. The United States Representative suggested that, in the same sentence, the words "including offences" should be amended by substituting therefor the words "and offences." This would make clear provision for the case of offenses relating to the security of the sending State and not punishable by the law of the receiving State.

12. The Subcommittee:

- (4) agreed, in view of the comment by the United States Representative, to amend paragraph 2 as follows: Delete the words: "with respect to offences punishable . . . receiving State." Substitute therefor the words: "with respect to offences relating to the security of the sending State, but not to that of the receiving State, and to all other offences punishable by the law of that State but not by the law of the receiving State."

13. The Chairman pointed out that, to the extent that the Contracting Parties enacted the legislation necessary to insure within their respective territories the security of the official information of the other Contracting Parties—as was provided in paragraph 9 of Article VI,—offenses relating to the security of the sending State would also be punishable by the law of the receiving State, and would

therefore fall within the concurrent jurisdiction of the sending and receiving States. He suggested therefore that in paragraph 4(a), after the words "Offences solely against the property" there should be added the words "or the security," so as to preserve for the sending State the primary right to exercise jurisdiction.

14. The Subcommittee:

- (5) agreed to amend paragraph 4(a) to make it applicable to offenses against the security of the sending State.

ARTICLE VI, par. 3

15. Paragraph 3 was based on the general principle of the respect owed to the laws of the receiving State by the armed forces, civilian components and their dependents. It was proposed that this paragraph be made a separate Article at the beginning of the Agreement (new Article II).

16. The Norwegian Representative wished also to include a sentence to draw the attention of the authorities of the sending State to their duty to take necessary measures to ensure that their nationals respected the law of the receiving State. The military authorities could, for example, issue instructions to the members of their forces to urge them to respect the laws and regulations of the receiving State.

17. The Subcommittee:

- (6) agreed that paragraph 3 should become Article II (new), and that the numbering of subsequent Articles, as well as the numbering of the paragraphs of Article VI, should be changed accordingly;
- (7) agreed to add the words "and their dependents" in new Article II after the words "civilian components of the sending State." At the end of the Article, add the following sentence: "It is also the duty of the authorities of the sending State to take necessary measures to that end."

ARTICLE VI, par. 4

18. The Chairman proposed that the memorandum submitted by the Belgian Delegation on traffic accidents⁵ should be considered in relation to paragraph 4. In this document, the Belgian Representative had expressed the view that the provisions of paragraph 4(b) should not be applicable to traffic accidents, but that these should be special cases within the jurisdiction of the receiving State.

19. The Netherlands Representative associated himself with this view.

⁵ MS-D(51) 8 (16 February 1951).

20. The Chairman pointed out that doubtless there were arguments in favor of jurisdiction for the courts of the receiving State in the case of traffic accidents which made a special impact upon public opinion. However, all military codes considered as offenses the acts of members of the armed forces which were such as to disturb the order of the receiving State. This was a guarantee that violations of police regulations, especially as regards traffic, would be punishable within the framework of military law.

21. The Danish Representative wished to see adopted the text of Article 7, paragraph 2, subparagraph 3, of the Western Union Agreement. In his opinion, it was necessary to provide certain exceptions to the jurisdiction of the sending State in the case of offenses committed by the members of its forces in the performance of official duty.

22. The United States Representative pointed out that the text of paragraph 4 in its present form represented a compromise. The exceptions which it lays down to the jurisdiction of the receiving State are indispensable for the maintenance of discipline in the armed forces of the sending State. The last paragraph provides expressly that in certain cases the sending State may waive its right to exercise jurisdiction.

23. The French Representative suggested that the sending State should give official notification of the cases in which they were prepared to waive their right to exercise jurisdiction. Thus the receiving State would have assurance that their courts would have jurisdiction over certain offenses which, according to the provisions of paragraphs 4(a) and (b), would otherwise be within the jurisdiction of the sending State.

24. The United States Representative regretted that he could not give such a list.

25. After discussion it was agreed to keep in its entirety the text of the draft submitted by the United States Representative, with the exception of the amendments contained in paragraphs 13 and 14 above.

26. The Portuguese Representative reserved the position of his Government on this subject.

27. The Chairman recalled that the views expressed in the course of this discussion did not in any way commit Governments; the draft Agreement would be before Governments at a later stage, after a new text had been prepared.

MS(J)-R(51) 5

Summary Record of a Meeting of the Working Group on Status (Juridical Subcommittee), 17 February 1951

*I. Consideration of Article VI of the Draft.*¹

ARTICLE VI, par. 4 (new par. 3)

1. The Netherlands Representative raised the question whether the text of Article VI provided that it was the duty of the members of a force to respect the police regulations of the receiving State and, for example, to obey orders given by the local police.

2. The Chairman² drew the attention of the Working Group to paragraph 6 of Article VI, which provided that the authorities of the receiving and sending States would assist each other in the arrest of offenders in the territory of the receiving State, etc. He thought that this paragraph covered the point raised by the Netherlands Representative.

3. In reply to a further question raised by the Netherlands Representative, the Chairman also pointed out that it would be for the sending State to decide whether the members of a force were on official duty or not. This was part of the normal cooperation between allies.

4. The Norwegian Representative recalled the proposal which had been made at the previous meeting by the Danish Representative to the effect that a proviso should be added in paragraph 4 stating that the sending State would give sympathetic consideration to any request by the receiving State that they should waive the right to exercise jurisdiction in cases to which the receiving State attached particular importance. Such a proviso would facilitate the adoption of the final document by the respective Parliaments.

5. After some discussion, it was agreed that the text of paragraph 4 (new paragraph 3) should be amended in accordance with a proposal of the United States Representative.

6. The Subcommittee:

- (1) agreed to add the following words to the end of the last subparagraph of paragraph 4 (new paragraph 3): "The sending State will give sympathetic consideration to a request for waiver in cases which the receiving State considers to be of particular importance."

¹ Reference: MS-D(51) 5 (12 February 1951).

² The Chairman at this fifth meeting of the Juridical Subcommittee was Brig. Gen. C. E. Snow, United States Representative.

ARTICLE VI, par. 5 (new)

7. The Chairman proposed that the following text should be included as a new paragraph 5: "Where a primary right of jurisdiction has been exercised by the authorities of a Contracting Party, a trial of the accused by such authorities shall preclude the subsequent trial for the same offence by the authorities of another Contracting Party."

8. The text of this paragraph submitted by the United States Delegation covered the case of conviction or acquittal, but would not apply if it had not been possible to collect sufficient evidence to prosecute. In that event, the authorities of another Contracting Party could prosecute again for the same offense.

9. The Belgian Representative stated that he could not accept the text prepared by the United States Delegation. In a case where a Belgian delinquent was convicted by a French court but escaped before having served his sentence, the Belgian authorities would no longer be entitled to prosecute the delinquent in question a second time. The delinquent would accordingly enjoy immunity, in view of the fact that the extradition of Belgian nationals was not authorized in Belgium.

10. Moreover, the Belgian Representative pointed out that a similar proposal had been considered superfluous when the Western Union Agreement was being drawn up. It had not been deemed necessary explicitly to include in the text of the Agreement a principle which was universally recognized, namely the principle of no double jeopardy.

11. The Belgian Representative proposed the following text: "Where an accused has been tried by the authorities of the receiving State and has been acquitted, or has been convicted and has served his sentence, or if his sentence has expired by efflux of time or he has been pardoned, he may not be tried again for the same offence by the authorities of the sending State."

12. The Italian Representative considered that it was necessary in this Agreement specifically to recall the principle of no double jeopardy, which normally applied only to jurisdiction within the territorial limits of one country.

13. Furthermore, even in cases where the trial resulted in an acquittal, the Italian Representative could not approve the draft submitted by the United States Delegation; it left the sending State the final right to take cognizance of offenses committed on the territory of the receiving State. He was in favor of the draft submitted by the Belgian Delegation.

14. The text submitted by the Belgian Representative was not

approved by the Subcommittee. A new draft submitted by the United States Representative was adopted which, while safeguarding the principle of no double jeopardy, guaranteed that no offense would go unpunished.

15. The Subcommittee:

(2) approved the following text of the new paragraph 3:

“Where an accused has been tried by the authorities of a Contracting Party and has been acquitted, or has been convicted, and is serving or has served his sentence, he may not be tried again for the same offence within the territory of that Contracting Party by the authorities of another Contracting Party.”

ARTICLE VI, par. 6

16. The French Representative said that there were three points on which he wished clarification, but that he would be satisfied with specific inclusions in the Summary Record and would not press for amendments.

16a. First, if the military authorities of the sending State were to catch a man in the act of committing an offense against the laws of the receiving State, would they automatically hand him over to the police of the receiving State? The Subcommittee agreed that the military authorities should do this.

16b. Second, if the police of the receiving State call the attention of the military authorities of the sending State to disorders caused by forces outside camps, would the military authorities, through the military police, heed such representations and take all possible action? The Subcommittee agreed that the military authorities should do this.

16c. The Brussels Treaty Agreement, in Article 7, par. 5(c), made specific provision for the entry of police into military camps, but this provision had been omitted in the United States draft. The French Representative did not want any legend of extraterritoriality to grow up, but thought that there must be some agreement between the police and the force.

16d. The United States Representative said that the Brussels Treaty Article had been intentionally omitted to avoid a conflict of jurisdiction. He said that the police should work through the camp commander and not have an absolute right of entry to a camp. He said that this point was covered in the Anglo-American agreement on exchange of forces, which he quoted:

No arrest of a member of a force or civilian component shall be made, and no process civil or criminal shall be served on any such

person, within any camp, establishment or station, except with the permission of the Commanding Officer in charge of such establishment or station; but should the Commanding Officer refuse to grant such permission, he shall, except in cases where the sending State is to exercise jurisdiction, forthwith take the necessary steps to arrest the person charged and surrender him to the appropriate authorities of the receiving State, or to serve such process, as the case may be, and to provide for the attendance of the person on whom such process has been served before the appropriate court of the receiving State or to procure the said person to make the necessary affidavit or declaration to prove such service. The expression "process" includes a summons, subpoena, warrant, writ or other judicial document for securing the attendance of a witness, or for the production of any documents or exhibits, required in any proceedings, civil or military.

16e. The United States Representative explained that this did not of course apply to nationals of the receiving State. He asked whether the French Representative wished some such statement included in the Agreement. The French Representative said that he would be satisfied if the text quoted by the United States Representative was reproduced in the Summary Record.

16f. The Italian Representative also concurred, though he wished to make the point that only authorized persons should be allowed to live in camps.

16g. The Danish Representative asked whether it would be practical to redraft the subparagraph in such a way as to include the possibility of a local agreement between the police and military authorities. After discussion, he concurred in the procedure to which the French Representative had agreed.

16h. The Netherlands Representative asked whether a statement could not be included to ensure that the results of trials and enquiries were communicated to interested parties. This was agreed.

17. The Subcommittee:

- (3) agreed to take note of the three points, and the answers thereto, as raised by the French Representative;
- (4) agreed to add at the end of paragraph 6: "The authorities of the Contracting Parties shall notify one another of the results of all investigations and trials in cases in which there is concurrent jurisdiction."

ARTICLE VI, par. 7

18. The Norwegian Representative said that he thought that the exclusion of the word "public" from the phrase "a prompt and speedy

public trial," although understandable on grounds of security, might be misunderstood. He thought it stated a valuable principle and noted that it occurred in the Council of Europe Convention on Human Rights. He suggested that subparagraph (a) might read: ". . . and public trial, provided that the public may be excluded for reasons of security and for other reasons laid down by law."

19. The French Representative pointed out that there were certain stages, notably "instruction," when the hearing was not public in French procedure. It was for this reason that the word had been omitted.

20. After discussion of the points raised, it was decided not to amend this subparagraph.

21. The United Kingdom Representative said that he wished to raise a point in connection with subparagraph (g). The present wording appeared to imply a *right* for a governmental representative to be present. He said that, when a case was to be heard *in camera* in a British court, the judge decided for himself who should or who should not be present. He might decide not to permit the governmental representative to remain. Since the judge could be warned of the undesirability of such a course, this was unlikely, but possible.

22. This apparent "obligation" was disliked by several delegations, notably the Portuguese and the Italian, since it implied a slight on the judicature of sovereign countries which for prestige reasons could not be tolerated. The Italian Representative suggested a redraft in the sense that "warning would be given by the authorities to the authorities of the sending State so that they could follow all phases of the legal proceedings."

23. The Canadian Representative mentioned the position of consular officers and suggested the addition of a phrase to subparagraph (f) so that it could cover governmental representatives.

24. The French Representative said that this was also open to objection, since interpreters could be present at the "instruction" phase while governmental representatives could not. He preferred to leave the Article as it stood, since it was at least precise.

25. The Canadian Representative suggested that all points of view would be met by adding to subparagraph (f) the words: "and when the rules of the court permit, to the presence of a representative of his Government." This was agreed by the Subcommittee.

26. The Portuguese Representative pointed out that subparagraph (d), relating to compulsory process for obtaining witnesses, could not be applied in his country since there was no legislation providing for it.

27. The Danish Representative said that, while the defendant was

covered in the matter of obtaining compulsory witnesses by subparagraph (f), the prosecution was not.

28. It was pointed out (and the Chairman asked that this should be included in the Record) that this point was covered by paragraph 6 of the Article where the receiving State already had legislation providing for compulsory process for obtaining witnesses.

29. The Netherlands Representative asked whether subparagraph (e) implied that a qualified advocate or counsel was a necessity in all cases or only in major ones, which was the normal custom in his country.

30. The Norwegian Representative said that he had read the subparagraph as meaning that legal aid *should be provided and paid for by the receiving State* in all cases.

31. The Chairman said, for the record, that this was not the case, and that payment would be made according to the law of the receiving State in such cases where legal aid was asked for.

32. The Subcommittee agreed:

- (5) not to amend subparagraph (a);
- (6) to take note of the situation regarding compulsory process for obtaining witnesses, as set out in paragraphs 26–28 above;
- (7) to take note of the ruling made by the Chairman as to the intention of subparagraph (e), as explained by him in paragraph 31 above;
- (8) to amend subparagraph (f) to read: “if he considers it necessary, to the services of a competent interpreter, and when the rules of the court permit, to the presence of a representative of his Government;
- (9) to delete subparagraph (g).

ARTICLE VI, par. 8

33. The Subcommittee:

- (10) agreed that the present text was satisfactory.

ARTICLE VI, par. 9

34. The United Kingdom Representative questioned the necessity for the paragraph at all and pointed out that it could, as it stood, be invoked whether there were any forces in a receiving State or not. He asked for its deletion or, failing that, that there should be agreement by both parties that legislation was necessary.

35. The Canadian Representative suggested that the first phrase should be redrafted to read: “*Each Contracting Party* will seek such

legislation *as it deems necessary* to” This received general approval and was adopted.

36. The Norwegian Representative suggested that mention should be made of legislation which would compel witnesses to appear before courts set up by the sending State in cases which fell within their jurisdiction.

37. The Danish Representative said that a reciprocal provision should also be included, but the French Representative opposed further alteration of the text, since it would probably only lead to Parliamentary difficulties if it appeared that instructions were being given as to what Parliament should do; and if the Norwegian proposal alone were adopted, it would be assumed that reciprocal action was not proposed, which would cause further trouble. He suggested that, if the record contained a statement to the effect that legislation was necessary, this would suffice. This was agreed.

38. The Subcommittee:

- (11) agreed that the first phrase of the paragraph should be redrafted to read: “Each Contracting Party will seek such legislation as it deems necessary. . . .”;
- (12) agreed that it was their general understanding that countries would legislate as necessary in order to allow courts to be set up by the military authorities of the sending State in a receiving State.

ARTICLE VI, par. 10

39. The Chairman said that the United States Delegation had decided to withdraw this paragraph, as the whole question of conditions in wartime was being dealt with separately.

II. Other Business.

40. The Canadian Representative said that he thought that delegations should consider taking steps to have legislation enabling troops of one State to be put under the operational control of another.

41. The Subcommittee:

- (13) agreed that this was a matter for consideration by Governments in the future.

42. The Norwegian Representative reverted to Article VI, par. 1, and asked that the words “in the territory of the receiving State” should be amended by the deletion of the words “in the territory.”

43. The Subcommittee:

- (14) agreed that this matter should be left to the drafting committee but saw no objection in principle to the deletion of these words.

MS(J)-R(51) 6

Summary Record of a Meeting of the Working Group on Status (Juridical Subcommittee), 22 February 1951*I. Introduction.*¹

1. The Chairman proposed that the meeting should re-examine the text of the Agreement as set out in MS-D(51) 11(R) and explained that this document was the work of the drafting committee. The majority of the changes to which he would draw attention were drafting changes, but in a few instances the drafting committee had thought it preferable to make amendments of substance, which could now be discussed.

II. Articles I-VI of the Redraft.

2. On Articles I-VI there was little to note beyond drafting points, such as the addition of the words "in connexion with the operation of the North Atlantic Treaty" in the definition of a "force" in Article I. In Article IV the reference to the Geneva Convention on Road Traffic was omitted, since it was not certain that this would come into force throughout the NATO area because some States might not ratify it. In Article VI, the second sentence of paragraph 1 had been added to meet the position of the Danish Representative. It was agreed however that it was difficult to imply any obligation to submit requests to carry arms, nor would orders which instructed troops to carry arms always be in writing, and they could not therefore be shown to the authorities of the receiving State.

III. Article VII.

ARTICLE VII, par. 1, 3

3. The Chairman said that this Article on jurisdiction had been rearranged in a new and, he hoped, more understandable form. He drew attention to the redraft submitted by the Portuguese Representative,² the effect of which would be to give greater powers to the receiving State and less to the military authorities of the sending State. More specifically, it would transfer the powers referred to in paragraph 3(a)(ii) to paragraph 3(b). The Chairman said that, in his view, if a just balance was not struck between the powers exer-

¹ Reference: MS-D(51) 11(R) (20 February 1951), as supplemented by two Addenda of 22 February 1951: see Note 1 to that document.

² MS-D(51) 13 (20 February 1951).

cised by each party, there would be endless trouble and no cooperation. He hoped that this could be avoided by keeping to the present text.

4. The Portuguese Representative said that the redraft of the Article contained in MS-D(51) 13 was the result of an interdepartmental meeting of experts held in Lisbon, who used the United States draft, D-D(51) 23, as the basis for their work. It represented his Government's view of how the substance of that paper could be interpreted within the framework of Portuguese legislation and their Constitution. He stressed that his Government has not been in possession of amendments made later to the United States draft and that, in the view of his Government, it was essential that they should have the opportunity for detailed study of the text later on.

5. The Chairman, after thanking the Portuguese Representative for his statement, stressed once more that the final document which the Working Group would produce was still only a draft and would not commit Governments. He envisaged submitting a document in the following week to the Deputies, who would then pass it for full study to Governments. He hoped the draft would prove acceptable, but said that if Governments had comments on the text it might be necessary to reconvene the Working Group later.

ARTICLE VII, par. 2

6. The Canadian Representative asked that the word "exercise" should replace "have" in the first sentence. The Chairman pointed out that this would compel a sending State to take action in such cases and suggested a new phrase in both subparagraphs to meet this point.

7. The Subcommittee:

- (1) agreed that the wording should read: "shall have the right to exercise exclusive jurisdiction" in both subparagraphs.

ARTICLE VII, par. 4

8. The Norwegian Representative said that he was satisfied with paragraph 4 regarding the death penalty, which represented his minimum demands. He was supported in this by the Portuguese Representative, who said that capital punishment had been abolished in his country in 1867 and that there had in fact been no executions for 105 years.

ARTICLE VII, par. 5

9. There was a technical difficulty in paragraph 5, subparagraph 3, that in the United Kingdom the word "arraignment" did not refer to

the first stage in a judicial process. It was therefore decided to use the word "charged."

10. The Belgian Representative said that his Government could not allow a force to hold a Belgian national under arrest, which appeared to be envisaged in the present draft.

11. The general feeling of the Subcommittee was that this Agreement referred specifically to "forces and civilian components" and that civilians were not covered. To avoid any confusion however, the word "offenders" in the first subparagraph was replaced by "members of the force or civilian component."

ARTICLE VII, par. 7

12. The Netherlands Representative said that one case not provided for in this paragraph was when, for instance, an American soldier injured a Belgian in transit through his country on his way, say to Holland. If the American force held a court-martial in Holland, the soldier, although he could not be tried by the Netherlands authorities, could be tried by the Belgians if they got hold of him.

13. The Subcommittee:

- (2) agreed that the position was as stated by the Netherlands Representative but hoped that in practice no such case would arise, since the soldier would probably be tried in the country where the witnesses, etc., were, as a matter of convenience.

ARTICLE VII, par. 9

14. The Canadian Representative said that he wished to clarify certain points relating to the powers of military police within camps. His understanding was that this paragraph did not of itself confer authority on the military police of a sending State to arrest nationals of the receiving State whom they might find in their camps.

15. The French Representative said that he wished to make it clear that the paragraph did not in any way diminish the powers of the police of the receiving State by granting some form of extraterritorial rights within camps.

16. After discussion, it was agreed that the object of the first subparagraph was to limit the jurisdiction of military police to camps, and that of the second subparagraph was to make it clear that, outside camps, military police should operate by arrangement with the local authorities.

17. The Subcommittee:

- (3) agreed that the following understanding should be recorded:
Paragraph 9 is not, of itself, intended to confer authority

on the military police of the sending State to arrest nationals of the receiving State, but it does not affect in any way the general right of the police of any State to exercise their authority throughout the territory of that State.

MS(J)-R(51) 7

Summary Record of a Meeting of the Working Group on Status (Juridical Subcommittee), 22 February 1951

*I. Consideration of Article VIII of the Draft Agreement.*¹

ARTICLE VIII, par. 1

1. The Chairman explained the sense of the Article as at present drafted and said that, if there should be any dispute whether an accident occurred in the course of NATO duty or not, this point should be settled within the terms of Article XVI.

2. The Danish Representative pointed out that an accident such as the crash of an airplane on an ammunition dump might result in a very heavy increase in the defense burden of a State. After discussion of this, the general feeling of the Subcommittee was that such accidents were the price to be paid for having a Treaty.

3. The Netherlands Representative reserved the position of his Government in the matter of collisions, etc., at sea. He thought that they would only permit the application of the Agreement to warships and within territorial waters.

4. The Norwegian Representative, supported by the Danish Representative, proposed that the first paragraph should be amended so as to exclude cases where the damage was not caused in pursuance of official duty. At the suggestion of the Chairman, the first paragraph was amended to meet this point.

5. The Canadian Representative said that he thought that salvage claims by Service Ministries could with advantage be included within the scope of the present Agreement. He said that such a waiver already operated insofar as his country and the United States were concerned. In this he was supported by the United States Representative, and an appropriate sentence was added to the paragraph with the agreement of the Subcommittee.

6. The Subcommittee:

- (1) agreed that the first sentence should read: "... caused by a member or employee of the armed forces of any other Con-

¹ References: MS-D(51) 11(R), with the text of Article VIII as inserted by the Addendum of 22 February 1951; MS-D(51) 6.

tracting Party, provided that such damage was caused by such member or employee in the execution of his duties in connexion with the North Atlantic Treaty.”

- (2) agreed that the following sentence should be added: “Claims for salvage by the respective Service Ministries are similarly waived.”

ARTICLE VIII, par. 2

7. The Subcommittee:

- (3) agreed on the figures corresponding to £500, which should be inserted in the second subparagraph;
 (4) agreed to delete the reference to an exchange of letters.

ARTICLE VIII, par. 4

8. The Subcommittee discussed the applicability of this Article in the event of hostilities. The United States Representative said that his Government could not possibly permit paragraphs 2 and 4 to be applicable to war damage and for that reason had added the phrase “not incident to combat” in paragraph 4. He was however inclined to think that it should also be added in paragraph 2.

9. The Chairman said that he hoped the outbreak of hostilities would not necessarily result in the abrogation of the present Agreement. He thought that the greater part of it would still be valid though, as the United States Representative had pointed out, parts would have to be suspended.

10. The Netherlands Representative proposed that, once the text was completed, it should be reviewed in order to see which of its provisions could not be accepted in time of war.

11. The Subcommittee:

- (5) agreed to proceed as proposed by the Netherlands Representative;
 (6) agreed, at the request of the Belgian Representative, to amend the first sentence to read “loss or destruction of the property of *persons or bodies, other than the Contracting Parties,*” since “private persons” was not a suitable phrase because of the existence of bodies other than the State.

ARTICLE VIII, par. 4(e)

12. The Subcommittee had before them three proposals for the distribution of claims:

- (a) the United States proposal in the original draft;

(b) the first French proposal (F1), incorporated in MS-D(51) 11(R);

(c) the second French proposal (F2), as set out in MS-D(51) 6.

13. The Chairman said that the United Kingdom was, in principle, in favor of F2, and he invited the comments of other Representatives. These were subject in most cases to a reservation that the Representative had not received final instructions.

(a) Belgium. No instructions.

(b) Canada. Retained an open mind; while he agreed to consider F2, he did not wish to ignore F1.

(c) Denmark. Preferred the United States proposal, but was prepared to accept either French proposal but not the figure of 3% for distribution.

(d) Italy. Preferred F2, though without ruling out F1, although the figure of 7% was, he thought, too high.

(e) Luxembourg. Would probably be prepared to follow the majority. If F2 were adopted, he would however have to ask for a ceiling on which his country could pay. If F1 were adopted, he wished Belgium and Luxembourg to be considered separately.

(f) Netherlands. He thought his Government would prefer F1 and that they would accept 5% as their share.

(g) Norway. In the absence of instructions he reserved his position as regards the percentage of distribution.

(h) Portugal. Said that his country's views were as stated in MS-D(51) 14.

(i) United States. Naturally preferred the United States proposal, but said that he had referred F1 and F2 to his Government with a recommendation to accept one or the other, though he personally preferred F1.

(j) France. Opposed firmly to the United States proposal, but willing to accept either F1 or F2. First preference for F1 since it was already well understood by the Brussels Powers, but had proposed F2 as a means of avoiding delay in reaching agreement on the question of percentages.

14. The Chairman said that he saw a certain preponderance of support for F2, and he asked the Netherlands Representative whether he would object to its inclusion in the text in place of F1. The Netherlands Representative agreed and said that, after hearing what other delegations had said, he was prepared to recommend F2 to his Government.

15. The United States Representative drew attention to the special position of Iceland which, he said, under F2 would have to bear 25%

of the damage caused there by United States troops. It was agreed that, as Iceland had no forces of her own, there could be no reciprocal treatment and that she must be treated as a special case.

16. The Subcommittee:

- (7) agreed to reconsider F2 the following day, with a view to including its text in the Agreement.

MS(J)-R(51) 8

Summary Record of a Meeting of the Working Group on Status (Juridical Subcommittee), 23 February 1951

*I. Consideration of Article VIII of the Draft Agreement.*¹

ARTICLE VIII, par. 4(e)

1. The Subcommittee proceeded to the consideration of MS-D(51) 6 as a replacement for paragraph 4(e) in MS-D(51) 11(R).

1a. The United States Representative said the word "claim" was wrongly used the second time in (i) of MS-D(51) 6. He suggested, and it was agreed, that the phrase "the amount awarded and taxable costs" should replace "claim and sundry charges."

2. The Subcommittee then considered in detail the various schemes for apportionment of the cost of claims, and the following points were brought out.

- (a) The cost of 25% to the receiving State was intended as a deterrent both as to the number of claims filed and as to their size.
 - (b) This seemed a fair figure, though from 20% to 30% was suggested.
 - (c) There should be account taken of the responsibility of the receiving State for the damage. Otherwise, in an accident where several sending States were involved, the receiving State though not responsible might have to bear a far larger burden than sending States who were responsible.
 - (d) In case a claim should be of such a size as to cause serious hardship to a small country, there should be a right of appeal to the North Atlantic Treaty Council.
3. In order to meet all these points, the Subcommittee agreed:
- (1) to redraft (i) of MS-D(51) 6 to read: "Where one sending State alone is responsible, the amount awarded and taxable costs shall be distributed in the proportion of 25% charge-

¹ Reference: MS-D(51) 11(R), with the text of Article VIII as inserted by the Addendum of 22 February 1951; MS-D(51) 6.

able to the receiving State and 75% chargeable to the sending State.”

- (2) to redraft (ii) of MS-D(51) 6 to read: “Where more than one sending State is responsible for the damage, the amount awarded and taxable costs shall be distributed equally among them: however, if the receiving State is not one of the States responsible, its contribution shall be half that of each of the sending States.”
- (3) to add a new subparagraph as follows: “In cases where the burden imposed on any Contracting Party by this Article causes it serious hardship, it may request the Council to arrange an adjustment of its liability.”
- (4) to delete subparagraph (iv) of MS-D(51) 6 as being unnecessary.
- (5) to transfer the existing subparagraph (iii) of MS-D(51) 6 to form a new subparagraph 4(e) of MS-D(51) 11(R), and to renumber 4(e) and 4(f) as 4(f) and 4(g).

ARTICLE VIII, par. 4(g)

4. The Belgian Representative asked for clarification of this, and the Chairman explained that it was put in to make it quite clear that, even if an individual member of a force had to appear in a court case arising out of his official duties and was ordered to pay costs, any further action must be against the sending State and the judgment could not be pressed against the individual. It was intended purely as a safeguard.

MS(J)-R(51) 9

Summary Record of a Meeting of the Working Group on Status (Juridical Subcommittee), 23 February 1951

*I. Consideration of Articles VIII-XX of the Draft Agreement.*¹

ARTICLE VIII, par. 5

1. The Belgian Representative asked why the phrase “other than contractual claims,” used in paragraph 4, had been omitted.

1a. The Subcommittee:

- (1) agreed to leave the wording as it was, since the type of claims to which it referred could hardly be contractual.

¹ Reference: MS-D(51) 11(R), with the text of Article VIII as inserted by the Addendum of 22 February 1951.

ARTICLE VIII, par. 7

2. The Danish Representative raised the question of paternity claims, and the United States Representative asked whether divorce was covered by the terms of this paragraph.

3. The Chairman said that whether divorce was covered depended on the law of the receiving State. In the United Kingdom it would not be.

4. The Subcommittee:

- (2) agreed to delete the existing paragraph and to replace it by:
 “The sending State shall not claim immunity from the jurisdiction of the courts of the receiving State for members of a force or civilian component in respect of claims not covered by the provisions of the preceding paragraphs.”

ARTICLES IX–X

5. The Subcommittee:

- (3) agreed to the revised text of these Articles, subject to minor textual alterations.

ARTICLE XI, par. 4

6. The Chairman said that, by adding the words “and its civilian component” to the first sentence, the drafting committee had made an amendment of substance which the United Kingdom authorities could not accept. While they were prepared to accord privileges to the authorities of a force to import supplies, etc., duty-free for the force and civilians subject to military law, they could not extend such a privilege to ordinary civilians. To do so would place them in the same category as diplomats.

7. The United States Representative said that his country’s forces invariably ran a Commissary and Post Exchange (PX) at which members of the force, the civilian component and their dependents would trade. It was unthinkable that they would do otherwise; and if the words “and its civilian component” were left out, a supplementary bilateral agreement would have to be negotiated.

8. In discussion the following points were made:

- (a) Only the force could give orders who might use its PX, canteen, etc.
- (b) The quantities imported for the civilian component would be relatively insignificant compared with the requirements of the force.
- (c) If civilian component were omitted from the text of the Agreement, it would be unfair and they would get their

supplies somehow. (It was pointed out that this would involve a breach of Article II).

- (d) To leave the civilian component out of the Agreement might lead to administrative misunderstandings and create difficulties for customs authorities who needed clear instructions.

9. The Subcommittee:

- (4) agreed, at the Chairman's request, to defer consideration of this point till the plenary meeting on 27 February 1951, by which time he would have had an opportunity to seek further instructions.

ARTICLE XI, par. 5

10. The Chairman explained that, owing to a misunderstanding in the drafting committee as to the interpretation of the words "new furniture," the last sentence was superfluous.

11. The Subcommittee:

- (5) agreed to delete the last three words of the first sentence and the whole of the second.

ARTICLES XII–XIV

12. The Subcommittee:

- (6) agreed to the revised texts of these Articles, subject to minor textual alterations.

ARTICLE XV

13. The French Representative said that so far as possible the Agreement should be equally valid—with, of course, a few amendments—in time of war. He raised the question of what was understood by the term "war" in modern times and quoted the cases of Indochina and Korea. A definition had to be written into the Agreement which was easily understood.

14. He then said that there were three categories of provisions within or without this Agreement which had to be considered:

- (a) those matters which could be left as they were in time of peace;
- (b) those arrangements which could not be presented to Parliament and were therefore excluded from the Agreement as drafted, and which would have to remain military secrets;
- (c) those provisions which could only be decided upon after an outbreak of war, which depended solely on the conditions obtaining at that time.

He pointed out that it would be much easier to obtain Parliamentary ratification if Ministers could give an assurance that, except

for a few articles which would have to be suspended in effect, the remainder of the Agreement would continue in wartime.

15. The Danish Representative said that he had definite instructions from his Government that the Agreement should continue in effect after an outbreak of war.

16. The Canadian Representative suggested that the Article could be rewritten in such a way as to limit the articles in the Agreement which would immediately have to be suspended or reviewed on the outbreak of war.

17. The Italian Representative said that the Working Group was charged with drafting an Agreement to regulate the status of forces in peacetime. It seemed to be generally agreed by the Subcommittee, however, that it would be unrealistic if all reference to wartime were omitted.

18. After a short review of the whole Agreement, the French Representative said that he thought that only Articles VII and VIII, and possibly III insofar as it referred to immigration regulations, might have to be redrawn.

19. The Chairman proposed a new draft first paragraph, with the consequent renumbering of the existing paragraph as paragraph 2.

20. The Subcommittee:

(7) agreed that the Article should be amended to read as follows:

“1. Subject to paragraph 2 of this Article, this Agreement shall remain in force in the event of hostilities to which the North Atlantic Treaty applies, except that Article VIII shall not apply to war damage, and the provisions of the Agreement, and in particular of Articles III and VII, shall immediately be reviewed by the Contracting Parties concerned who may agree to such modifications as they may consider desirable regarding the application of the Agreement between them.

“2. In the event of such hostilities, each of the . . .”

ARTICLES XVI–XVII

21. The French Representative enquired whether Article XVI prevented the reference of a dispute to the International Court of Justice at The Hague.

22. The Chairman said that this was so, unless all parties agreed to do so.

23. The Subcommittee:

(8) approved Articles XVI and XVII.

ARTICLE XVIII

24. The Canadian Representative said that, pending ratification of the Agreement, he hoped that all signatories would press ahead with its implementation wherever this was possible by administrative methods.

25. Most Representatives felt that such a course might lead to parliamentary difficulties in their own countries. It was agreed, however, that it was important to get the Agreement working as soon as possible.

26. The Subcommittee:

- (9) agreed that, in presenting the Working Group's report to the Deputies, the Chairman should stress the importance of asking that Governments should take administrative action, where this was proper, to hasten the putting into effect of the Agreement.

ARTICLE XIX

27. The Subcommittee:

- (10) agreed to approve this Article.

II. Further Comments on Article III of the Draft.²

28. The Chairman apologized for reverting to this Article but said that he was under instructions to press for certain amendments, notably the deletion of civilian components from the list of those for whom passport and immigration regulations would be waived. He said that it had been agreed earlier that Article III would have to be immediately reviewed on the outbreak of war for this very reason. He therefore saw considerable advantage in insisting that all civilians, whether members of a civilian component or dependents, should have passports. If they wished to travel outside the NATO area to Switzerland, Sweden, Spain, etc., they would in any event need passports.

29. The French Representative said that he had broadly similar instructions.

30. The Chairman said that it would be necessary for the purposes of the Agreement, to enable these people to enjoy their privileges, that they should be accurately described in their passports. He proposed the addition of a suitable paragraph to this effect.

31. The Chairman said that he had a further amendment to add about members of a force or civilian component who left their em-

² Reference: MS-D(51) 11(R) (20 February 1951).

ployment while in a receiving State. He asked permission to draft a suitable paragraph for consideration by the plenary meeting of the Working Group.

32. The Subcommittee:

(11) agreed to the Chairman's proposal.

D-R(51) 11

Summary Record of a Meeting of the Council Deputies, 19 February 1951.

I. Agreement on the Status of the Armed Forces of the North Atlantic Treaty.

1. Mr. Lambert, Chairman of the Working Group on the Status of the Armed Forces of the North Atlantic Treaty Countries, gave a report on the progress so far made by the Working Group.

2. He explained that before embarking on their study of the problem the Working Group had had to take into account a number of factors, the most important of which were as follows:

- (a) Whereas the Agreement on the status of members of the armed Forces of the Brussels Treaty Powers was limited to peacetime only, the Working Group had felt that it would be unrealistic in present circumstances to ignore the position which would obtain on the outbreak of hostilities. They had accordingly decided to prepare in the first place an agreement which would be applicable in peace, and then to consider whether the terms could without great difficulty be made applicable after the outbreak of hostilities. The Working Group had felt that to have an agreement which automatically terminated on the outbreak of hostilities would cause the maximum of inconvenience at a time of great pressure. It would be most desirable that countries should not be faced with the task of negotiating a fresh agreement at a time when it was imperative to have agreed arrangements in operation. It was the hope of the Working Group that the draft on which they would reach agreement would be of such a kind that it could continue in operation after the outbreak of hostilities and until such time as it proved necessary to re-examine the various provisions in the light of the experience gained of its operation.
- (b) The arrangements with regard to languages used in the various forms and documents had to be altered from those envisaged under the Brussels Treaty Agreement, and it was

hoped that final agreement would be reached on the use of the language of the sending State plus either French or English.

- (c) It was felt that the use of the word "foreign" was unsuitable in the NATO context and it had accordingly been eliminated.
- (d) Some difficulty had been experienced with regard to the precise definition of "war." Recent experience had shown that there were a number of forms of conflict not amounting to war, and it had accordingly been decided to adopt some more general term such as "hostilities."
- (e) Special provisions were being made to cover the civilian component of the Armed Forces of the North Atlantic Treaty Powers, whereas these had been omitted from the Brussels Treaty Agreement.

3. In general, he hoped that the articles as finally agreed would be more positive than those of the Brussels Treaty Agreement.

4. So far, Articles I–VI had reached an advanced state of agreement. Article VI (Jurisdiction) had proved to be difficult, and there had had to be a certain degree of give and take. Article VII (Claims) was also proving difficult, but in the light of recent discussions it was hoped that a compromise solution would be reached by the middle of the week. The remaining Articles, apart from Article IX on income tax and other matters relating to direct taxation, had also reached an advanced state of agreement and it was hoped that they would be cleared by the end of the week.

5. In view of the progress which had already been made, it would be reasonable to hope that there would be an agreed Working Group draft for submission to the Deputies in the course of the following week.

6. Mr. Lambert wished to place on record his thanks for the help and cooperation which he had received from all Representatives on the Working Group. It had, however, been clearly understood that, in agreeing to the text of any article or articles, Representatives were in no way committing their Governments. He hoped, however, that by the time the draft had been agreed there would be no points which were totally unacceptable to Governments. He wished to make it clear that certain provisions in the draft Agreement would certainly require legislation on the part of a number of countries, and it was possible that this legislation might prove to be controversial. In drafting the Agreement, the Working Group had attempted to keep a reasonable balance between the interests of a sending State and those of a receiving State. Certain countries, however, particularly

Iceland, were more likely to be primarily a receiving or a sending State, and this might create difficulties in accepting the Agreement as a whole.

7. The Canadian Deputy inquired what procedure would be followed when the Working Group had submitted their agreed draft.

8. The Chairman said that it was his intention to place the draft Agreement on the Council Deputies agenda if it appeared evident that some advantage might be derived from a discussion around the table. Ultimately, however, Governments would have to decide whether or not they were prepared to accept the draft. Discussion by the Deputies might serve to narrow the possible field of disagreement, and in any case he hoped that the Deputies would be in a position to recommend the acceptance of the Agreement as a whole to their respective Governments.

9. There was general agreement on the procedure suggested, several Deputies stressing that Ministers would have to be consulted.

10. The Council Deputies:

(1) thanked Mr. Lambert for his statement.

(2) agreed to discuss the draft Agreement when complete, with a view to recommending its acceptance to Governments.

* * * * *

MS-R(51) 5

Summary Record of a Meeting of the Working Group on Status, 27 February 1951

*I. General.*¹

1. The meeting had before it the text of the draft Agreement contained in MS-D(51) 11 (2nd Revise). At the suggestion of the Chairman it was decided to take the draft Article by Article. In the course of this examination a number of minor textual alterations were made, which are not noted in detail in this Summary Record, but which appear in the new text—D-D(51) 57. Amendments of substance were, however, made as set out below.

II. Article III.

2. The Chairman said that the United Kingdom Government would like an addition to paragraph 4 to ensure that in the case of absences without leave the authorities of the receiving State should be notified after 21 days. It was agreed to include this provision.

¹ Reference: MS-D(51) 11(2R) (24 February 1951).

III. Article VI.

3. The Netherlands Representative asked the reason for the second paragraph authorizing officers always to retain their personal weapons. He thought that its purpose was to allow officers to keep their weapons in their homes without contravening laws regarding firearms. It was pointed out that an officer under arrest might be deprived of his personal weapon and that if a force ordered that officers should keep their weapons with them at all times then paragraph 1 was sufficient.

4. The Working Group decided to delete paragraph 2 of Article VI.

IV. Article VII.

5. The Norwegian Representative asked whether paragraph 7 as drafted covered a case where a reprieve was granted before any sentence at all had been served. Under both Norwegian and Danish law if this happened the man convicted could in fact be tried again.

6. The Working Group felt that the intention of the Article was quite clear, that a man should not be placed in double jeopardy and hoped that such cases as the Norwegian Representative envisaged would not, in practice, occur.

V. Article VIII.

7. The Chairman circulated an addition to the first paragraph which, he said, was intended to make the provisions of the Article reciprocal. It involved no new principle. The United States Representative said that he agreed with the draft and it was accepted by the Working Group.

8. The Danish Representative raised again [the question] whether the sums paid out in claims should not be included in the overall defense budget. The feeling of the Working Group was that they could not say what expenses should rank therein, but that such an agreement might eventually be made. They agreed that no mention of such a possibility could be included in the text of the Agreement now, however.

9. The Working Group considered that subparagraph 4(e) would be better placed at the end of the Article as a separate paragraph since it did not apply only to the provisions of paragraph 4.

10. The Luxembourg Representative proposed a rewording of paragraph 4(f)(iv). He said that the present wording was too limited and he suggested that "a settlement of a different nature" should be substituted for "an adjustment of its liability." This was agreed.

MS-R(51) 6

**Summary Record of a Meeting of the Working Group on Status,
27 February 1951***I. Article VIII of the Draft Agreement.*¹

1. The Belgian Representative asked for clarification whether the Working Group were firmly wedded to the method for settling claims as set out in paragraph 4(f) or whether there was still a possibility of a return to the first French proposal for a settlement on a percentage basis.

2. The Chairman explained for what reasons the Group had decided to substitute the present proposal, stressing in particular the advantage of not having to negotiate exact percentages, which would in any case need to be revised whenever a new party acceded to the North Atlantic Treaty. This did not, of course, he explained, prevent Governments from expressing a preference for the percentage proposal, though he hoped that they would not do so.

3. The Netherlands Representative asked whether it would be possible for States to agree bilaterally that claims between the receiving State and one sending State should be settled on a basis other than 25-75. The Working Group felt that this figure represented a fair figure, but it might be best to reconsider it later in the light of Governmental comments.

II. Article X.

4. The Chairman said that the United Kingdom Government wished to include a paragraph as follows:

“The provisions of paragraph 1 of this Article are not applicable in relation to a member of a force who is a national of the receiving State.”

5. This was strongly opposed by the United States Representative on the ground that a soldier had no choice where he was posted and it would be most unjust if a British subject resident in the United States of America, who was serving in the United States forces, were taxed by both the United States and the United Kingdom when he was sent to Britain. The position was different in the case of civilians who were probably in a position to refuse an appointment if it was likely to involve them in double taxation.

6. The Working Group agreed that this proposal should not appear in the text of the Agreement, but that the Chairman was at liberty to mention it in his report.

¹ Reference (for all the Articles considered at this meeting): MS-D(51) 11(2R) (24 February 1951).

7. The Working Group agreed to add a paragraph defining "duty" in the same way as did paragraph 12 of Article XI.

III. Article XI.

8. The Chairman said that the United Kingdom Government were not disposed to agree unconditionally to the sale of duty-free goods to the civilian component and that they wished a permissive phrase inserted in the draft so that it would read: "... for the exclusive use of that force and, *in cases where such use is permitted*, of its civilian component."

9. The United States Representative proposed that in view of this addition dependents also should be added and this was agreed.

10. The Canadian Representative said that the Working Group had all but reached agreement on a multilateral basis and it seemed a pity to disagree now and insert unilateral provisions. He hoped that it was not intended to discriminate against any one State.

11. The Chairman said that in so far as the United Kingdom was concerned the same treatment would be afforded to all forces in comparable circumstances.

IV. Article XV.

12. The Working Group agreed that the phrasing of paragraph 1 "... except that Article VIII shall not apply to war damage" was rather wider in effect than had been intended and it was agreed to substitute a new phrase "... except that the provisions for settling claims in paragraphs 2, 4 and 5 of Article VIII shall not apply to war damages."

V. Article XVI.

13. The Netherlands Representative said that he thought the present phrase "... that there shall be no recourse to outside jurisdiction" was offensive in particular since it applied to the International Court of Justice, the supreme judicial authority within the United Nations framework. The North Atlantic Treaty had been drafted within United Nations Organization's framework, so that it seemed impossible to include such a provision.

14. The Working Group agreed that it would be better to say "without recourse to outside jurisdiction." It would then be within the competence of the Council when a dispute reached them to refer it to the International Court if they were unable to reach agreement and if they thought this a wise thing to do.

VI. Reference to Governments and Further Meeting.

15. The Chairman said that the Chairman of the Deputies had told him that he hoped to bring the Agreement before the Deputies at the end of the present week or on 5 March. Thereafter he hoped that Governments would study the Agreement as quickly as possible.

16. In view of the fact that Easter occurred so soon the Working Group decided that comments should reach the Secretariat by 31 March, who would circulate them and, should a further meeting be necessary, it would be held on 16 April. Earlier dates were called for by some Representatives, but it was felt that these were the earliest practicable ones, though the Deputies might rule otherwise.

17. In presenting his report to the Deputies, the Chairman was asked to stress the point made by the Canadian Representative that once the Agreement had been signed Governments should take all possible and proper administrative steps to implement the Agreement without delay.

VII. Applicability of the Draft Agreement to Troops on the Staff of SHAPE.

18. The question was raised whether troops on the staff of SHAPE and other supranational bodies should come within the scope of this Agreement or that regulating the position of NATO international staff. The view was expressed that there was considerable advantage in this Agreement being applicable to such staff, but the Working Group did not feel that they could express an authoritative opinion. The French Representative, who was going to Paris, said that he would have consultations with officers of SHAPE and submit a report on the subject. He also agreed to mention to SHAPE the problem of operational command of troops of another nation and the possibility of SHAPE setting up supranational military courts. Both of these matters had been raised in the Working Group, but had been considered outside its competence.

VIII. Closing Statements.

19. The Chairman in closing the meeting expressed his gratitude to all his colleagues for their ready cooperation. He thought that the spirit of ready compromise had helped immensely in producing a draft which was remarkable for the measure of agreement reached. He thanked in particular the United States Representative for having produced a first draft, in the amendment of which he had been so accommodating, and the French Representative for his resourcefulness in presenting a solution of the apparently insoluble claims problem.

20. The United States Representative thanked the Chairman and said that the Working Group had been lucky to have a Chairman of such ability and affability.

D-R(51) 15

Summary Record of a Meeting of the Council Deputies, 2 March 1951

I. Draft Agreement Between the Parties of the North Atlantic Treaty Regarding the Status of Their Forces.¹

1. The Council Deputies had before them a report submitted by the Chairman of the Working Group covering a draft Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces.²

2. Mr. Lambert, the Chairman of the Working Group, said that the Working Group had made every effort to produce an Agreement which was in the main likely to be acceptable to all Contracting Parties. It had proved very difficult in certain instances to reconcile the interests of the sending and receiving States, and the Working Group appreciated that there were a number of provisions in the draft Agreement which might cause some Governments to have misgivings. The discussions in the Working Group had always been conducted on the basis that Governments were not committed, but he hoped that in the event it would be found that Governments were substantially in accord with the draft.

3. Mr. Lambert then drew attention to a number of specific points arising out of certain articles.

(a) ARTICLE I

An attempt had been made in this draft to cover certain categories of civilians which, though small in numbers, created certain difficulties. These civilians fell broadly into two main classes:

- (i) "the civilian component," i.e., civilian personnel in the employ of an armed service of a Contracting Party;
- (ii) "dependents," i.e., wives and children of members of a force or of a civilian component.

Not all civilians were necessarily entitled either technically or morally to precisely the same treatment, and varying provisions had been included in the different articles of the draft accordingly.

¹ Previous reference: D-R(51) 11, par. 1-10 (19 February 1951).

² Reference: D-D(51) 57 (28 February 1951), containing the revised text of the Agreement and an accompanying report.

(b) ARTICLE II

This represented an expansion of a principle which had been enunciated in the Brussels Treaty Agreement. The Working Group felt that it was of sufficient importance to merit a separate Article. The wording of this Article laid stress on the need for a full recognition by all members of a force and its civilian component and dependents of the need to respect the law of the receiving State.

(c) ARTICLE III

This was based on the similar provision in the Brussels Treaty Agreement, except that specific requirements for identity cards and other documents had been incorporated in the body of the Agreement instead of in an appendix. The inclusion of civilians in the Agreement had given rise to certain difficulties in this connection. It was the feeling of the Working Group generally that arrangements for these civilians could with advantage be subjected to further study with a view to coordination. As at present proposed, civilians would enter a receiving State under passport in the normal way. While there was no question of granting civilians any kind of diplomatic immunity, it was the hope of the Working Group that certain administrative measures might be taken to reduce formalities to a minimum once entry had been effected.

(d) ARTICLE VI

The intention of the last sentence was to recognize that there may be special reasons why a receiving State should make representations to a sending State regarding the carrying of arms. Provided that good relations were established between the authorities of the sending and receiving State from the outset, there would appear to be no reason why requests of this nature should not be met.

(e) ARTICLE VII

This was one of the most difficult articles. The Working Group felt that the present text should satisfy the majority of Governments, though they realized the existence of some misgivings. These misgivings had in the main been expressed by receiving States, who were anxious about the possible results of the presence in their midst of forces of sending States. In drafting this Article the Working Group had attempted to strike a balance, as far as possible, between the legitimate interests of the sending and receiving States. Paragraph 1 of the Article set out two complementary provisions, namely:

- (i) The military authorities of the sending State shall be entitled to exercise full jurisdiction within the receiving State, conferred on them by their own military law, subject to certain provisions. This means in practice that the military authorities of a sending State could try offenders by court-martial and if necessary impose the death sentence. This provision was, however, subject to paragraph 4 of the Article, under which it was laid down that the death sentence would not be carried out in a State which did not have this penalty in its penal code.
- (ii) Conversely, the authorities of the receiving State shall have jurisdiction with respect to offenses committed within their own territory and punishable by the law of that State. This provision was in effect a statement of a principle which was already accepted.

Paragraph 2 of the Article dealt with offenses which related to the law of the sending State only, and gave power to the military authorities of the sending State to exercise jurisdiction in cases such as desertion.

Paragraph 3 raised very delicate issues: it attempted to lay down certain rules to govern the procedure to be followed in cases where an offender stands in peril of either being court-martialed by the military authorities of his own forces or being brought before a court of criminal jurisdiction in the receiving State. The practical issue here was to decide what authority should deal with the case. In the course of discussion the view had been expressed that circumstances differed to such an extent that each case should be dealt with on its merits. It was the consensus of opinion, however, that such an attitude would lead to grave difficulties. It was in nobody's interest for an individual to be kept in custody pending the outcome of lengthy discussions on which authority should exercise jurisdiction. The important thing was to dispose of the case rapidly. It had accordingly been decided to divide the cases roughly into two broad categories: the military authorities having the primary right of jurisdiction over one category, and the civil authorities of the receiving State the primary right of jurisdiction over the other. These two categories were described in paragraph 3(a) and (b). Subparagraph 3(a)(ii) covered offenses of particular difficulty. The words in square brackets had been left in pending clarification of the precise difference between the terms "in the performance of official duty" and "pursuant to a lawful order issued by the military authorities of that State." A typical example of a case which fell under this head was that of a member of a force who, while driving a service vehicle on duty, in-

licts death or injury on a civilian in the receiving State as a result of a traffic accident. Another typical example was that of a sentry inflicting injury on an intruder in an excess of zeal. In this difficult field the first essential was to apprehend the offender and bring him to trial. Legitimate differences of opinion on the theory of jurisdiction should not be allowed to deteriorate into a contest between the military authorities of the sending State and the civil authorities of the receiving State, as such a contest could only end in deadlock. The solution lay in arriving at a working arrangement which each side could accept as being equitable and which would encourage full cooperation between the military and the civil authorities. The absence of willing cooperation on both sides would only lead to chaos. The effect on the public of such cases should also be borne in mind. Generally speaking, public opinion was sympathetically disposed towards the victim but was not very much exercised as to which authority actually punished the offender.

Paragraph 7 was of some importance insofar as it laid down the principle that once an individual had been tried and convicted he could not be tried again for the same offense in that country.

Paragraph 10 contained a new point which required careful study and probably legislation. It was clear that offenses of this nature could not be dealt with under the ordinary law of the receiving States.

(f) ARTICLE VIII

This was also a difficult article. Paragraph 1 made provision for a mutual waiver of claims between States in respect of damage to any property owned by the service ministries of a Contracting Party. The reason for this mutual waiver was a desire to avoid the inter-State claims which would otherwise arise out of the inevitable minor collisions and accidents. The mutual waiver also included special provisions in respect of vessels.

Paragraph 2 covered possible inter-State claims relating to non-service property and envisaged a mutual waiver of claims up to a value of £500.

Paragraph 3 made provision for a mutual waiver of claims in respect of injury and death arising out of official duty. This meant that pensions, etc., would be dealt with under the appropriate code of the nation to whom the individuals belonged.

Paragraph 4 raised a number of difficulties. The Agreement laid down the principle that claims would be handled throughout by the receiving State, probably acting through a claims commission or similar body, while permitting recourse to the civilian courts in the

absence of settlement. The main difficulty arose on the question of the distribution of costs. The adoption of a percentage scale had been discussed but abandoned, partly owing to the difficulty of arriving at agreed percentages and partly because any scale of percentages agreed would be automatically upset by the accession of any other Contracting Party to the Agreement. The Working Group had finally decided to recommend a method of settlement under which the cost of claims would be distributed between the sending and receiving States on the basis of 75% for the sending State and 25% for the receiving State. The Working Group had felt that, in view of the fact that the receiving State would assess the damages, it would be unreasonable to expect the sending State to pay in full, and at the same time the fact that the receiving State would have to bear a proportion of the claim would encourage it to keep both the number of claims and the size of the awards as low as possible.

Paragraph 5 laid down a procedure for off-duty claims, under which the sending State would meet the claim on the basis of an assessment made by the receiving State. The sending State would not, however, be compelled to pay the whole claim in full.

(g) ARTICLE X

This Article covered income tax. The Working Group felt that any provisions relating to income tax should be simple and should be, broadly speaking, in line with existing international agreements covering similar circumstances. Mr. Lambert emphasized that under this Article the sending State would be responsible for making appropriate arrangements to ensure that a member of its forces remained "resident" for purposes of income tax; otherwise the position would arise under which individuals were exempt from tax.

(h) ARTICLE XV

An attempt had been made in this Article to lay down what the position would be in the event of an outbreak of hostilities. The Working Group were unanimous that, as far as possible, the Agreement should be so drafted as to permit it to continue, with certain obvious exceptions, after hostilities had broken out. They felt that the present draft could be allowed to remain in force until changed circumstances of war compelled one or more Contracting Parties to request reconsideration. Sixty days notice of denunciation was required, thereby allowing time for an immediate review of the situation in order to substitute alternative provisions.

(i) ARTICLE XVIII

This Article made provision for the Agreement to come into force after ratification by four Contracting Parties. Such a provision was felt to be desirable in order that the implementation of the Agreement should not be unduly delayed.

(j) TIMETABLE

The Working Group had recommended that Governments should be asked to submit any comments which they might wish to make on the draft text not later than 31 March. These comments would be circulated by the Secretariat, and if necessary the Working Group would be reconvened on 16 April. When submitting the draft to Governments he hoped the Deputies would recommend to them that plans for the implementation of the Agreement should be prepared at once, thereby obviating any unnecessary delay. Similarly, in cases where legislation was necessary, the preliminary steps should be taken.

4. In the course of discussion the following points were made:

- (a) It was essential to clarify the passage in square brackets in paragraph 3 of Article VII, and in particular to define the term "lawful order." It was indicated that the term "lawful" in this connection meant in accordance with the military law of the sending State.
- (b) It was agreed that it was desirable that the Agreement should be applicable to staff service on Headquarters such as SHAPE and also to individual officers attending courses of instruction at service colleges, etc.
- (c) The question was raised in connection with Article VIII as to the procedure which would be adopted in cases where an officer, e.g. a divisional commander, of a nationality different from that of the troops under his command, gave an order as a result of which a claim arose. The general feeling was that apportionment of the damages should be governed by the nationality of the troops causing the damage rather than the nationality of the officer giving the order.

5. The Council Deputies:

- (1) invited individual Deputies to transmit the draft Agreement³ to their respective Governments for approval.
- (2) agreed to the timetable indicated by the Chairman of the Working Group at paragraph 3(j) above.

³ D-D(51) 57 (28 February 1951).

- (3) expressed their wholehearted appreciation to the Working Group for their success in drawing up a draft Agreement within such a short space of time.

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IV. Status of NATO Representatives and International Staff.

12. The Council Deputies had before them a memorandum by the United Kingdom Deputy, covering a draft general Agreement on privileges and immunities of the North Atlantic Treaty Organization.⁴

13. The Council Deputies:

invited individual Deputies to submit the draft Agreement to their respective Governments for consideration.

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D-R(51) 20

Summary Record of a Meeting of the Council Deputies, 13 March 1951

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VI. Status of NATO Representatives and International Staff.¹

33. In submitting for consideration by the Council Deputies D-D (51) 58, concerning the status of NATO Representatives and International Staff, the United Kingdom Deputy pointed out that this draft expressed only the United Kingdom point of view. For this reason, it might differ in a number of respects from the draft Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces, which had been drawn up by the Working Group and had now been submitted to member Governments. He suggested that this draft Convention should be considered by Governments at the same time as D-D(51) 57.

Sir Frederick Hoyer-Millar² proposed that a similar procedure for consideration of the draft relating to civilian staff to that for the Agreement on the status of forces should be adopted. A Working Group could perhaps be called together on the same date which had been fixed for the next meeting of the Group charged with the preparation of the Agreement on the Status of Forces. In this way coordination would be ensured between the work of the two groups. He also proposed that the Working Group should be instructed to

⁴ D-D(51) 58 (1 March 1951).

¹ Previous reference: D-R(51) 15, par. 12-13 (2 March 1951).

² United Kingdom Deputy.

consider the status of the members of NATO military agencies, particularly of SHAPE.

34. Describing the draft Agreement on the status of civilian staff Sr. Frederick drew attention to a number of points to which the Working Group should devote special consideration, in particular the definitions in Article 1 which specified the various categories of persons who would benefit under the convention, the position of dependents of the international staff and the national delegations. He said that His Majesty's Government would grant the same privileges as those granted to members of the diplomatic corps to persons covered by the Agreement as soon as their names had been included in the list compiled by the Secretary of State and published in the London Gazette under the terms of the relevant United Kingdom legislation. These persons' names would have to be notified to the Foreign Secretary either by their respective embassies in the case of foreign representatives or by the Secretary in the case of the international staff.

35. The French Deputy suggested that the Working Group should be requested to take into account the OEEC regulation. He pointed out, moreover, that under the terms of the Agreement on the Status of NATO Forces, its provisions were also intended to apply to the international staff of the military agencies, particularly of SHAPE.

36. The Council Deputies:

agreed that a Working Group should be established to consider the draft submitted by the United Kingdom Delegation, and that it should carry out its survey in consultation with the group which had been charged with the consideration of the Agreement on the Status of the Forces.

MS-R(51) 7

Summary Record of a Meeting of the Working Group on Status, 16 April 1951

*I. Election of Chairman.*¹

1. Mr. W.V.J. Evans² was elected Chairman of the Working Group, in succession to Mr. G.W. Lambert, on the proposal of the Icelandic Representative seconded by the French Representative.

¹ The editor has renumbered the paragraphs in this Summary Record as follows (new numbers in parentheses): par. 3 (3-5); par. 4-5 (6-7); par. 6 (8-15); par. 7 (16-19); par. 8 (20).

² United Kingdom Representative. Mr. Evans served as Chairman of the Working Group for all the meetings reported in MS-R(51) 7-26 (16 April 1951 to 23 August 1951).

2. The Secretary was instructed to transmit to Mr. G.W. Lambert the appreciation of the Working Group for the efforts which he had made to bring to a successful conclusion the preparation of a convention on the military status of the armed forces of the NATO countries.

II. Administrative Arrangements.

3. It was agreed that it was necessary to have translation both from French into English and English into French.

4. In view of the fact that some amendments to the draft convention on the military status of the armed forces of the NATO countries had only recently been received, it was agreed that it would be preferable for the Working Group to concentrate in the first instance on the draft convention on the status of NATO Representatives and International Staff: D-D(51) 58.

5. It was agreed that the Working Group would attempt to finish their consideration of D-D(51) 58 at three meetings: namely, the present meeting and two meetings to be held on 17 April 1951. No meeting would take place on Wednesday, but it was hoped that a start could be made with the examination of the amendments proposed to the convention on the military status of the armed forces of the NATO countries³ on Thursday, 19 April 1951. At this latter meeting it would probably be convenient to examine in the first instance the technical points arising out of Articles VIII to XIV (inclusive) of the draft.

*III. Draft Convention on the Status of NATO, National Representatives and International Staff.*⁴

6. The Working Group then considered the draft Agreement submitted by the United Kingdom on the Status of NATO, National Representatives and International Staff.

7. The Chairman explained that most international organizations had an agreement on privileges and immunities, for example the United Nations,⁵ Specialized Agencies,⁶ the OEEC,⁷ and the Council

³ D-D(51) 57 (28 February 1951).

⁴ Reference: D-D(51) 58 (1 March 1951).

⁵ Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly of the United Nations on 13 February 1946: 1 UNTS 15.

⁶ Convention on the Privileges and Immunities of the Specialized Agencies, adopted by the General Assembly of the United Nations on 21 November 1947: 33 UNTS 262.

⁷ Supplementary Protocol No. 1 to the Convention for European Economic Cooperation on the Legal Capacity, Privileges and Immunities of the Organization, signed at Paris on 16 April 1948. Treaty Series, No. 59 (1949), Cmd. 7796, 43 Am. J. Int. L. Supp. 94, at 102 (1949).

of Europe.⁸ All these agreements were on broadly similar lines, but in the case of agreements concluded more recently certain modifications had been incorporated with a view to clarification on drafting points. The present draft by the United Kingdom Deputy was based on the model of the agreement for the Specialized Agencies with the addition of one or two modifications aimed at taking into account improvements introduced in later agreements.

8. The Working Group considered the draft Agreement, article by article.

TITLE

9. It was deemed preferable to exclude the words “privileges and immunities” from the title of this document. After discussion it was agreed provisionally to reword the title to read as follows: “Draft Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff.”

PREAMBLE

10. A number of Representatives proposed that the term “Organisation” should be substituted for the term “Council” where it appeared in the draft. While it was true that the North Atlantic Treaty itself only mentioned the Council and the Defense Committee, the Agreement would have to cover the North Atlantic Treaty Organization as a whole and therefore the all-embracing term “Organisation” appeared to be preferable. After an exchange of views on this suggestion, it was ultimately agreed to substitute the word “Organisation” for “Council” in view of the difficulties which the term “Council” gave rise to in certain articles of the draft, in particular Article 3.

ARTICLE 1

11. It was agreed to include an additional definition (b) to read: “The Council means the Council established under Article 9 of the North Atlantic Treaty or any person or body established to act on its behalf.”

12. Certain drafting amendments were made in the original Article 1(a) and 1(b).

13. It was decided to postpone consideration of the original Article 1(c) until Part V of the Agreement as a whole was considered. A number of Representatives indicated that in their view the definition established in Article 1(c) was too restrictive.

⁸ Statute of the Council of Europe, signed at London on 5 May 1949: 87 UNTS 103.

ARTICLE 2

14. It was agreed to delete the words "The Secretary of" in the first line, as it was clearly incumbent upon the Organization as a whole to comply with the terms of this Article.

ARTICLE 3

15. It was agreed that the second subparagraph should be amended to read: "The Council shall act on behalf of the Organisation in these matters."

16. The Chairman expressed the view, with which the Working Group concurred, that under the terms of this Article as amended subsidiary agencies of the Organization could not hold the title to property in their own name but only in the name of the Council.

ARTICLE 4

17. It was agreed to amend this Article as to specify that it would be the Council acting on behalf of the Organization who would be expressly authorized to waive this immunity in special cases.

ARTICLE 5

18. It was agreed to omit the words "whether by administrative, judicial or legislative action" on the ground that they added nothing to the text.

ARTICLES 6-9

19. These Articles were agreed, subject to the substitution of the word "Organisation" for the word "Council" throughout.

20. The Working Group:

Instructed the Secretary to produce a redraft of Articles 1-9, as amended in discussion, as soon as possible.⁹

MS-R(51) 8

Summary Record of a Meeting of the Working Group on Status, 17 April 1951

*I. Draft Agreement on the Status of NATO, National Representatives and International Staff.*¹

⁹ See MS-D(51) 24 (16 April 1951).

¹ Reference: D-D(51) 58 (1 March 1951).

1. The Working Group resumed their discussion of the draft Agreement.

ARTICLE 10

2. The Chairman said that Part IV of the document under discussion corresponded to Article IV of the United Nations Specialized Agencies Convention,² Part III of the OEEC Convention,³ and Part III of the Council of Europe Convention.⁴ Section 11 of the Specialized Agencies Agreement, concerning priorities, rates and taxes on mail, telegrams, etc., had been omitted from the present draft. The United Kingdom did not think the omission of this Section was of any great importance: NATO communications could always be sent from one country to another through ordinary governmental channels. Furthermore, this provision had been found to be at variance with the Convention of the Intertelecommunications Union and had been referred to the General Assembly of the United Nations for discussion.

3. The United States Representative said that paragraph 2 of Article 10 might imply that NATO mail would be accorded more favorable treatment than that normally accorded diplomatic mail. If for some reason restrictions were imposed on diplomatic mail, presumably they would be imposed on NATO mail as well. He suggested the insertion, after "privileges as," of the words "are accorded in similar circumstances as."

4. Some Representatives expressed the view that the suggested phrase appeared to be restrictive and its insertion would be unfortunate. Others were of the opinion that it would be better to retain the words used in the Specialized Agencies Agreement. Any change in the original wording might be misunderstood.

5. It was agreed, after discussion, that it would be advisable to insert a new Article 10 based on the wording of Article 8 of the OEEC convention, which would read as follows:

The Organisation shall, except insofar as would be inconsistent with the International Telecommunications Convention, enjoy in the territory of each Member State, for its official communications, treatment not less favourable than that accorded by the Government of that State to any other Government, including its diplomatic mission, in the matter of priorities, rates and taxes on mail,

² 33 UNTS 262 (21 November 1947).

³ Supplementary Protocol No. 1 to the Convention for European Economic Cooperation on the Legal Capacity, Privileges and Immunities of the Organization, signed at Paris on 16 April 1948. Treaty Series, No. 59 (1949), Cmd. 7796, 43 Am. J. Int. L. Supp. 94, at 102 (1949).

⁴ 87 UNTS 103 (5 May 1949).

cables, telegrams, radiograms, telephotos, telephone and other communications, and press rates for information to the press and radio.

It was also agreed that communications originating from the Organization to military Headquarters of NATO, e.g., Supreme Allied Commander Europe, would be covered by this Article and that communications to the Organization from the military Headquarters of NATO would be covered by the Agreement on the Status of the Armed Forces of the North Atlantic Treaty.

ARTICLE 11

6. The Chairman explained that this Article was based on Article 13 of the Specialized Agencies Convention and Article 9 of the Council of Europe Convention. It did, however, differ considerably from Article 9 of the OEEC Convention in two main respects, namely:

- (a) Privileges and immunities would not be granted in respect of journeys of representatives to and from the place of meeting.
- (b) The privileges and immunities to be granted would be listed in detail.

With regard to (a), the United Kingdom Government was of the opinion that it would not be desirable to grant privileges and immunities in cases where a Representative of a member nation broke his journey from his place of residence to the place of meeting in order, for example to take a week or fortnight's holiday in a third country. Their view was that the privileges and immunities concerned should only be granted when the individual was actually performing his official duties.

With regard to (b), he explained that when the Specialized Agencies Convention was drawn up the matter was subjected to a very detailed examination and it was decided that it would be preferable to list the privileges and immunities individually. The main reason for this was that diplomatic privileges differed widely from country to country, and it was felt that when extending privileges and immunities to a new category of officials it was desirable, for reasons of reciprocity and for other reasons, to attempt to lay down a universally accepted standard and at the same time to restrict those privileges to what was desirable for the purpose of those officials' functions. Article 9 of the OEEC Convention on the other hand was, in the view of the United Kingdom Government, a great mistake and in their opinion it had been drafted with insufficient care by people who were not fully acquainted with the subject matter or the background. For this reason the United Kingdom had been unable to

accept its obligations under this Convention, and the Order in Council relating to OEEC personnel in the United Kingdom granted to them only those privileges and immunities which were accorded to officials of the Specialized Agencies.

One proof that an error had been committed in the preparation of the OEEC Convention was that the Council of Europe Convention, which had been prepared subsequently, reverted to the model of the Specialized Agencies Convention, and the United Kingdom Government did not wish to see a repetition of the mistake which had been made in the preparation of the OEEC Convention. Thus, while the United Kingdom would be prepared to consider any modifications to the proposed privileges and immunities, he must urge that they should be set out in detail and not covered by an omnibus clause granting diplomatic privileges on the lines of Article 9 of the OEEC Convention. Any other form of convention was unlikely to be acceptable to the United Kingdom Parliament.

7. The French Representative said that his Government would prefer to adopt Article 9 of the OEEC Convention as it stood, for two reasons:

- (a) The draft proposed by the United Kingdom was too restrictive and the solution of the OEEC Convention was far simpler. In his view it would be unjust to conclude for NATO a convention less favorable than that agreed for OEEC. While agreeing with the force of the Chairman's remarks on the Specialized Agencies Convention, he thought that there was a distinction to be drawn between the Specialized Agencies, which were, in the main, bodies composed of technicians, and NATO, members of whose delegations would to a considerable degree be composed of diplomatic personnel. Finally, he did not think there was any valid objection on general grounds to extending to the comparatively small numbers of the delegation of NATO full diplomatic privileges.
- (b) Apart from considerations of principle it should be realized that OEEC and NATO would have a very close working relationship, particularly as far as the Financial and Economic Board was concerned, and he foresaw grave difficulties in having different conventions for the two bodies, particularly as certain individuals might be working for both organizations.

With regard to parliamentary difficulties, he thought this argument was double-edged, insofar as it would be difficult for some Governments to explain to their Parliaments why NATO should be

given a status which appeared to be inferior to that enjoyed by OEEC. Admittedly the diplomatic privileges varied from country to country, but this was not an insuperable objection as they were known worldwide and were therefore presumably generally acceptable.

8. The Chairman pointed out that in practice a Government would undoubtedly grant to any individual the maximum facilities to which he was entitled either in his capacity as a diplomat, or as a member of OEEC, or as a representative of a NATO delegation.

9. The Canadian Representative, while conscious of the difficulties involved in extending privileges and immunities to a new category of officials, felt that while Article 11 would be more than sufficient for individuals attending *ad hoc* NATO meetings, there was a strong case for granting diplomatic privileges in full to specified members of the permanent NATO delegations. This point might be covered by a series of supplementary agreements under Article 24 of the draft or by some other more convenient means.

10. The Danish, Italian, Norwegian, Portuguese and United States Representatives agreed with the view expressed by the French Representative that the existing draft was far too restrictive, particularly as far as members of permanent delegations were concerned. There was a further practical difficulty, namely that the majority of the NATO delegations in London were already on the diplomatic list.

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MS-R(51) 9

Summary Record of a Meeting of the Working Group on Status, 17 April 1951

*I. Draft Agreement on the Status of NATO, National Representatives and International Staff.*¹

1. The Working Group resumed their consideration of Part V of the draft Agreement.

2. The United States Representative drew attention to the position of military personnel who might be attached to the permanent national delegations, for example, to the Council Deputies. In the view of his Government such personnel should be covered by this Agreement and not by the Military Status Agreement. The point could be met by amendment to Article 11, with a cross-reference to Article 1(b).

¹ Reference: D-D(51) 58 (1 March 1951).

3. The Chairman said that it was clear from the discussion that a number of Representatives would have to seek further instructions from their Governments.

4. There appeared to be three categories of persons involved, namely:

- (a) permanent members of NATO delegations;
- (b) representatives of member countries who visited the Organization from time to time for *ad hoc* meetings (temporary representatives);
- (c) subordinate staff.

5. The consensus of opinion appeared to be as follows:

- (i) to favor the granting of full diplomatic privileges to category (a) above, down to approximately Third Secretary level;
- (ii) that temporary representatives under (b) above did not require full diplomatic privileges and Article 11 of the draft would be more than adequate for them;
- (iii) that personnel under category (c) would only require certain limited immunities, for example those relating to personal baggage, etc.

There was general agreement with the Chairman's summary as set out above.

6. The Working Group:

- (1) invited the Chairman to prepare a redraft of Part V of D-D(51) 58, incorporating the consensus of opinion as summarized above.

ARTICLE 16

7. In addition to minor editorial changes it was agreed to add a sentence to the effect that the Chairman of the Council Deputies shall communicate to the Governments of member States the names of the officials within the categories so agreed.

ARTICLE 17(a)

8. It was agreed that the words "They shall continue to be so immune after completion of their functions as officials of the Council" should be deleted, on the grounds that this provision went somewhat further than the immunity granted to diplomatic personnel and that in any case the immunity was granted not to the individual but to the Organization. A consequential amendment would accordingly be necessary in subparagraph (b) of Article 20.

ARTICLE 17(b)

9. The United States Representative proposed the addition at the end of this sub-article of the words "and from social security assessments." This addition was desirable in the view of the United States legislation [Delegation?], provided it did not create difficulties for other countries. It was agreed to accept the addition provisionally.

10. On the general issue of tax-free emoluments, Mr. Cameron² urged the inclusion, in Part VI of the draft Convention, of the provisions of Article 15. The effect of this would be not to place any obligation on any State to grant tax immunity to any member of the International Staff who was its national. The United States Congress had up to now been firmly opposed to granting exemption from United States tax to United States members of international bodies located in the United States, and were unlikely therefore to accept any convention which automatically imposed upon that Government an obligation to grant tax exemption to any United States national who might be employed in one of the NATO agencies in the United States. This proposal was supported by the Canadian Representative.

11. The Chairman explained that the United States proposal raised serious difficulties. Under United Kingdom law there was no method of granting tax exemption to United Kingdom nationals serving in international bodies in the United Kingdom except by inserting a definite obligation in an international agreement. It was the intention of the United Kingdom to grant exemption from income tax to its nationals serving in the NATO.

12. The Secretary pointed out that the United States proposal would have serious repercussions on the current negotiations regarding salary scales. The alternative recommendations which were at present under consideration by the Council Deputies were both drawn up on the assumption that the emoluments would be free of income tax, and to insert a provision on the lines proposed would mean that a completely fresh start would have to be made on the question of salaries, with consequential delays which would not be in the interests of the Organization as a whole. Apart from this, the effect on any agencies in the United Kingdom would be to discriminate against United Kingdom nationals, for the reasons explained by the Chairman. This might well lead to a situation under which nationals other than United Kingdom nationals would not be required to pay tax and United Kingdom nationals would, although both were working

² United States Representative.

for the same Organization. It was difficult to conceive that any United Kingdom national would be prepared to work for the Organization under such conditions.

13. This view was supported by the Norwegian Representative, who had participated in the drawing up of the proposed salary scales. He pointed out furthermore that the probable effect would be to inflate the salary scales still further with a consequential increase in the total of the NATO Civil Budget.

14. It was agreed for the time being that the provisions of Article 15 should not be written into Part VI of the draft, but the point should be considered at a later stage after the United States Representative had had an opportunity to seek further instructions.

ARTICLE 18

15. It was agreed that this Article should be deleted on the grounds that it would create difficulties for a number of countries to have a moral obligation to exempt any of its own nationals from compulsory military service.

ARTICLE 20

16. The Canadian Representative suggested that the immunities granted under this Article would be sufficient for the temporary representatives of countries who attended *ad hoc* meetings of NATO bodies from time to time.

17. The Chairman undertook to consider this suggestion in his proposed redraft of Part V.

ARTICLE 22

18. It was agreed that it was unnecessary to have such a detailed article to cover abuses of privileges, as any such abuses could be covered either under normal diplomatic procedure, if diplomatic personnel were involved, or by resort to common law.

19. The Canadian Representative however suggested that a sentence be added at the end of Article 22 on the lines of Article 24 of the Specialized Agencies Convention in order to provide for some effective and speedy means of handling abuses of privilege.

ARTICLE 24

20. It was agreed to add a sentence at the end of this Article to the effect that the Council shall inform all member States of any agreements concluded under this Article.

ARTICLE 25

21. In order not to delay unduly the coming into force of this Convention, it was agreed to substitute "six" for "nine" in the first line of the second subparagraph.

22. The Working Group:

- (2) invited the Chairman to circulate a complete redraft of D-D(51) 58, incorporating the various points raised in discussion.³

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MS-R(51) 10

Summary Record of a Meeting of the Working Group on Status, 19 April 1951

I. Draft Agreement on the Status of Forces.¹

1. The Working Group had before it the draft Agreement on the Status of Forces, which had been drawn up in February 1951, and on which Governments had submitted observations.²

2. The Chairman had summed up those observations, article by article, in a document³ which he circulated as a basis for discussion. He proposed that no translation into French should be made for the time being of the observations submitted by the Governments and that the French version should be made only after the English text had been cast in its final form.

3. The French Representative supported this proposal and requested that a drafting committee should subsequently examine the French text with a view to bringing it into line with the English text.

ARTICLE VIII, par. 1

4. The Working Group first considered Article VIII. With respect to paragraph 1(a), the first amendment had been requested by the United States to the effect that: first, the designations (a) and (b) should be omitted from paragraph 1; and secondly, the term "Service Ministries" should be replaced by "armed services." In the first sentence of paragraph 1 of Article VIII, the term "armed

³ See MS-D(51) 25 (20 April 1951).

¹ Reference: D-D(51) 57 (28 February 1951).

² *Canada*: MS-D(51) 15 (3 April 1951); *Portugal*: MS-D(51) 16 (4 April 1951); *Belgium*: MS-D(51) 17 (5 April 1951); *Denmark*: MS-D(51) 18 (5 April 1951); *France*: MS-D(51) 19 (7 April 1951); *United States*: MS-D(51) 20 (9 April 1951); *Netherlands*: MS-D(51) 21 (10 April 1951); *United Kingdom*: MS-D(51) 22 (11 April 1951).

³ This was apparently not distributed as an official document.

forces" would also be replaced by the term "armed services." This amendment was adopted. It was further agreed that paragraph 1(b) of the original text would become a separate paragraph, designated as 3, the subsequent paragraphs being renumbered accordingly.

5. The second amendment had been requested by the Portuguese Representative who was of the opinion that the regulations laid down in this Article should not apply to damages caused intentionally and accordingly requested that the word "unintentionally" should be inserted in paragraph 1(a) after the words "such damage was caused." After some discussion, the Portuguese Representative's proposal was rejected. Nevertheless, the Working Group recognized that, although this paragraph had not been drafted with a view to covering intentional damage, such damage could be regarded as falling within the scope of this Article in exceptional cases.

6. The next amendment was proposed by the Belgian Delegation. Its object was to replace the expression "member or employee" by the terminology used in Article I of the draft Agreement. A discussion followed on the question whether or not this draft Agreement was intended to cover, not only damage caused by a member of the armed forces or a civilian component, but also by employees who did not belong to the armed forces, but might be in their service insofar as they had been hired for a particular job or had been given a contract. It was pointed out that, if such were the case, the same amendment should be made to paragraph 4 of Article VII. Several arguments were put forward either for or against extending the scope of the Agreement to cover employees. The Working Group sought a definition of the word "employees" which would in any case restrict the inclusion of this category to those persons who were regularly and not casually employed. The French Delegation proposed the expression "on the pay roll." The term "salaried employee" was also suggested. The Chairman said that in his view the Agreement in question applied to the armed forces and not to the members of those forces. In defining the exact significance of the term "employee" the important point was to decide whether a Government was answerable for the person so described. A definition should be sought in the light of this consideration and he proposed to include such a definition in the next text of Article VIII.

7. The United Kingdom Delegation proposed a new draft of paragraph 1(a), with a view to ensuring complete reciprocity of treatment of vessels and vehicles owned by Governments, whether or not they were used in connection with the operation of the North Atlantic Treaty. The Netherlands Representative pointed out that the paragraph should be restricted in any case to damage caused or suffered

by vessels. Special legislation existed only with reference to vessels, and not to aircraft and vehicles; in the case of the latter, it was not the vehicle itself which was responsible, but the driver. The Working Group agreed to the new text proposed by the United Kingdom Delegation insofar as it applied to vessels.

8. As far as vehicles and aircraft were concerned, the Portuguese Representative proposed that the phrase "damage caused by a vehicle, vessel or aircraft" should be replaced by the phrase "damage arising out of the use of any vehicle, vessel or aircraft." This amendment was adopted by the Working Group. The whole of the United Kingdom proposal, as amended, was adopted. The Chairman undertook to prepare a final text of the passage.

9. The next amendment to paragraph 1(a) had been submitted by the Netherlands Delegation, to the effect that this paragraph should be restricted to men-of-war. A number of Representatives thought that this amendment would be too restrictive. In this connection, the Working Group raised the question whether the phrase "vessel . . . in its possession" applied to vessels to be under the management of the Ocean Shipping Board. It was generally agreed that paragraphs 1 to 3 did not apply to ships which were under the management of the Defense Shipping Authority. The only exceptions were ships which were taken out of the NATO shipping pool for the permanent use of the armed services of the Contracting Party concerned. It was agreed that the Netherlands amendment would be reserved for subsequent consideration.

ARTICLE VIII. par. 2

10. The Working Group then proceeded to consider an amendment proposed to paragraph 2 by the United States Representative. The first point discussed was whether this Article should specify that the damage was caused to property owned by the receiving State "and located in its territory." The United States Representative pointed out that it was not the intention of his proposal to restrict the application of the paragraph but merely to specify the arbitration procedure to be followed. In the case of damage caused to the property of the receiving State in its own territory, it would be the procedure laid down by the draft Agreement; in the case of damage caused outside the territory of the receiving State, it would be common international practice. The phrase "located in its territory" was retained.

11. The second object of the United States amendment was to change the procedure whereby the arbitrators were nominated, the basic difference being that, in the United States draft, the arbitrator was not necessarily selected from among the nationals of the receiving State. It was pointed out that, in the case of damage caused in

national territory, the courts of the receiving State normally exercised the right of jurisdiction; it was due to the fact that in the present case an exception to this principle had been provided by establishing an arbitration procedure, that it had been decided, as a compensatory measure, to select an arbitrator of the nationality of the receiving State. The United States Representative argued on the contrary that, since the receiving State defrayed only 25% of the damage, precautions should be taken to ensure that the arbitrator was entirely impartial. The Chairman suggested that the arbitrator should be selected by the receiving and sending States parties to the dispute from a panel of nationals drawn up by the receiving State, and that, if no agreement could be reached, the nomination would be made by the Chairman of the Council Deputies. The United States Representative had no instructions on this point, but gave his provisional agreement.

12. At the Canadian Representative's request, it was specified that the phrase "owned by the Contracting Parties" was understood to signify the property of the State itself and not of political subdivisions thereof. The Chairman, however, requested the right to reserve his reply, with a view to ascertaining whether this provision was applicable under United Kingdom law.

13. Subparagraph (c) of the new text proposed for paragraph 2 by the United States Representative was rejected.

14. Subparagraphs (d), (e) and (f) of the United States draft were adopted.

15. It was agreed that the whole of this paragraph would be re-drafted and that the new text would be subsequently circulated.

16. The next amendment, which had been submitted by the Portuguese Representative, was withdrawn by him.

17. The next amendment, which had been submitted by the United Kingdom Representative, was to the effect that the following sentence should be added after the table appearing at the end of paragraph 2: "Any other Contracting Party whose property has been damaged in the same incident shall also waive its claims up to that amount." This amendment was adopted.

18. The Chairman also proposed that a sentence should be inserted to enable the sending State to lodge a counterclaim against the receiving State. The principle of inserting a sentence to this effect was adopted.

ARTICLE VIII, par. 3

19. The first amendment to paragraph 3 had been submitted by the Portuguese Representative with a view to clarifying the text. This amendment was slightly amended and adopted. It was understood

that, although this paragraph stipulated that the State concerned should waive all its claims, this did not have the effect of rendering null and void those claims which were submitted by individuals, whose rights remained unimpaired.

ARTICLE VIII, par. 4

20. The Working Group then proceeded to examine the United Kingdom request to add the words "or employees" after the word "members" in paragraph 4. The same arguments were put forward as those which had already been used in favor of the proposed amendment to paragraph 1. The Netherlands Representative opposed the insertion of the words "or employees" into this paragraph, on the grounds that the Agreement had been drawn up to cover damage caused by the armed forces and not by civilians in the services of the armed forces. The Working Group was of the opinion that it would be advisable to seek a general definition of the word "employee."

21. In paragraph 4, the French Representative pointed out that the present wording provided exoneration from responsibility on the grounds that the act was done in the performance of official duties, in cases where it was impossible to establish whether an individual had played an active or passive part in the damage caused. In many cases, it would no doubt be impossible to prove that any particular piece of damage had been caused by a member of a foreign force. The present text would therefore have the effect of considerably restricting the scope of the Agreement. Common law would, in fact, become operative once more, which meant that, although the responsibility of the sending State would be recognized, it would be impossible to obtain compensation for the damage, since the sending State enjoyed immunity from jurisdiction. The French Delegation would therefore prefer to return to the general terminology of paragraph 1 of Article 8 of the Agreement concluded within the framework of the Brussels Treaty and which would be worded as follows: "Subject to paragraphs 1, 2 and 3 of this Article, each Contracting Party will be responsible for paying compensation for damage to third parties, caused in its territory by armed forces which are present there as a consequence of the North Atlantic Treaty, in all cases where there would be a right to compensation if the damage had been caused by its own armed forces."

22. After some discussion, the Working Group drew up a new draft text, but reserved the final consideration of this draft for a subsequent meeting.

23. With respect to paragraph 4(e) (i), the Portuguese Representative proposed that the percentages of the claims chargeable to the

sending and receiving States should be fixed respectively at 85% and 15%, instead of 75% and 25%. This request was based on the fact that the person responsible for the damage was normally expected to pay full compensation. According to common legal practice, the sending State would therefore be expected to meet the claim in full. The only reason for the decision to make part of the claim chargeable to the receiving State was the desire to give proof of the spirit of cooperation existing among the States signatory to the Treaty. There was nothing to justify this charge in law, and the Portuguese Representative thought that in these circumstances the proportion made chargeable to the receiving State should be reduced.

24. The United States Representative said that he had been instructed to request that the cost should be shared in the proportion of 50% between the two States. He considered that, since the arbitrator would be selected from among the nationals of the receiving State, guarantees should be provided against the danger that the arbitrator might show too much partiality to his compatriots. This suggestion was emphatically disputed by a number of Representatives who said that the integrity of an arbitrator was above suspicion. In fact, there should be no difference between the amounts of claims to be awarded in such cases and the amounts of claims awarded for damage caused by nationals.

25. The Working Group agreed to retain the distribution 75-25%.

26. The last amendment submitted to paragraph 4(e) by the United States Representative was rejected.

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MS-R(51) 11

Summary Record of a Meeting of the Working Group on Status, 20 April 1951

I. Amendments to Article VIII of the Draft Agreement.¹

1. The Working Group continued their examination of the amendments² proposed to Article VIII of the draft Agreement on the Status of Forces.

¹ Reference: D-D(51) 57 (28 February 1951).

² For a list of the documents containing the amendments proposed by the various delegations, see MS-R(51) 10, par. 1, note 2, *supra* (19 April 1951).

ARTICLE VIII, par. 4(e) (ii)

2. The French Representative inquired what the position would be under this subparagraph when damage was caused by several Contracting Parties and it was impossible to apportion the blame among them. He suggested an addition to this clause to the effect that: "If the damage is caused by armed forces of the Contracting Parties without it being possible to determine whether one or more of those forces are responsible for the damage, the indemnity to be paid will be divided equally between the Contracting Parties concerned."

3. It was pointed out that, if this amendment were accepted, it would be necessary to insert at the end of it the proviso at present contained in the phrase beginning "However, if the receiving State" in paragraph 4(e) (ii).

4. The amendment proposed by the French Representative was agreed in principle. The Chairman undertook to circulate a suggested draft.

ARTICLE VIII, par. 4(f)

5. United States amendment. The United States Representative pointed out that this amendment was submitted for reasons of administrative convenience, namely, to avoid individual members of a force being required to appear before the courts of the receiving State in cases where it was possible to reach a settlement without his taking part in the case.

6. It was pointed out in discussion that in the majority of cases it would be necessary for the defendant to attend the court in order to testify, as he would probably be the individual responsible for the damage. It was true that in cases of this kind the government authorities of the State concerned would stand behind the individual, and in order to protect him provision had in fact been made in the Agreement to the effect that no judgment could be entered against the individual. In the case of the United Kingdom, the result of adopting the United States amendment would be that action could only lie either against the force or the State concerned, which would create difficulties. In view of the above considerations the United States Representative agreed to withdraw his proposed amendment.

ARTICLE VIII, par. 4(g) (new)

7. United States proposal. The United States Representative explained that his Government felt that it would be desirable to attempt to lay down some kind of procedure to cover maritime

claims made by third parties. The basic idea contained in his suggested paragraph was that when a national of one State had a claim against another Contracting Party he would receive fairer treatment if he dealt exclusively with his own national courts rather than being compelled to plead his case in a foreign court. Once the claim was settled by his own Government the damages, if any, would be distributed in accordance with the generally agreed percentages for claims.

8. The Belgian and Danish Representatives said that the United States proposal was unacceptable and they would prefer to leave the existing second subparagraph of paragraph 4(f) as it stood.

9. The Canadian Representative appreciated the motives which had impelled the United States Government to make this proposal but he felt that the language used was unduly complicated. Would not the position be met if a simplified wording was adopted on the following lines: "Where a person has a maritime claim against the armed services of another Contracting Party arising out of the operation of the North Atlantic Treaty, the courts of the country of which that person is a national shall be the venue to determine such claims"?

10. The Chairman said that in his view the procedure proposed in the additional paragraph was impracticable. For example, if a passenger vessel, carrying several hundred passengers belonging to say twenty or thirty nations, was sunk by a NATO vessel as a result of collision, the application of the paragraph would mean innumerable actions for damages being taken in all the various countries concerned, in accordance with their own particular laws. The members of the Shipping Company, for instance, could not possibly be represented at all these actions.

11. The Italian and Portuguese Representatives concurred in this view. In addition, the Italian Representative pointed out that he could not accept the application of the proposed subparagraph in Italian territorial waters.

12. It was finally pointed out that the proposal in subparagraph (g) was in conflict with international law and international agreements and for this reason alone could not be accepted.

13. The United States Representative agreed to report the views expressed above to his Government.

ARTICLE VIII, par. 4(f)

14. The United Kingdom amendment to the second subparagraph was accepted in principle subject to certain drafting changes to be proposed by the Chairman.

ARTICLE VIII, par. 5

15. The Portuguese Representative said that in his view it would be preferable for the *ex gratia* payments to be made direct to the authorities of the receiving State rather than to the claimant, in view of the fact that the assessment of the damage had been carried out by the authorities of the receiving State.

16. The Chairman said that while having no strong views on this point he was inclined to favor the Portuguese amendment. This view was supported by the Danish, Netherlands and Norwegian Representatives.

17. The United States Representative said that it had been the United States experience that in some cases, owing to administrative defects, there had been a delay between the receipt of *ex gratia* payments by the authorities of a receiving State and its receipt by the actual claimant. This had resulted in complaints being addressed by the claimant to the sending State for not having made payment, when in fact it had already been made some time previously. Apart from this, he felt that there was some psychological advantage in the *ex gratia* payment being received direct by the individual claimant from the government responsible.

18. The Canadian Representative pointed out that under Canadian law *ex gratia* payments had to be sanctioned by Parliament and made direct to the beneficiary.

19. In the light of the above considerations the Portuguese Representative agreed to withdraw his proposed amendment.

20. It was agreed that for reasons of clarity it would be preferable to subdivide this paragraph into four subsections.

21. The United States Representative said that his Government assumed that any agreement to *ex gratia* payments would be on the basis of reciprocity. This assumption was confirmed by the Working Group.

ARTICLE VIII, par. 7

22. The United States Representative withdrew his proposal to delete this paragraph.

23. The Chairman explained that the object of the United Kingdom amendment to paragraph 7 was to exclude any Contracting Party from claiming immunity under his national law for cases not covered elsewhere in the Article, e.g., affiliation orders. The United Kingdom amendment was agreed in principle subject to redrafting.

CONTRACTUAL CLAIMS

24. The French Representative suggested that some provision should be inserted in this Article to cover contractual claims. This might be based on Article 8, par. 7, of the Agreement Relative to the Status of Members of the Armed Forces of the Brussels Treaty Powers.

25. The Chairman welcomed this proposal and pointed out that under the present draft if a contract was entered into in the name of the sending State with a civilian of a receiving State, no machinery existed for resolving any dispute which might arise. Normally the courts of the receiving State would have no jurisdiction on such matters, but the effect of introducing a paragraph on the lines suggested by the French Representative would be to remove the immunity at present enjoyed by the sending State.

26. The United States Representative said that he found some difficulty in accepting the proposed addition. The number of individuals who would be authorized to commit their Governments in such matters would, he thought, be small. Considerable doubts were expressed on this latter point, reference being made to local purchases which were normally carried out on the authority of commanders of units. The general consensus was that there would be an advantage in providing some machinery.

27. The United States Representative agreed to seek further instructions from his Government on this matter, but felt bound to point out that it was the policy of the United States Government, as such, not to subject itself to the jurisdiction of foreign courts. He doubted whether a proposal to submit such cases to arbitration would be more acceptable to the United States Government than the proposal made by the French Representative.

MS-R(51) 12

**Summary Record of a Meeting of the Working Group on Status,
20 April 1951***I. Amendments to the Draft Agreement on the Status of Forces.*¹

1. The Working Group continued their discussion of the proposed amendments² to the draft Agreement.

¹ Reference: D-D(51) 57 (28 February 1951).

² For a list of the documents containing the amendments proposed by the various delegations, see MS-R(51) 10, par. 1, note 2, *supra* (19 April 1951).

II. Article XI of the Draft.

ARTICLE XI, par. 2

2. The United States Representative explained that the purpose of the proposed United States amendment was to overcome an administrative difficulty under United States law, which might require the United States custom authorities to demand a triptyque for vehicles not brought in under their own power, e.g., boxed vehicles.

3. The Chairman said that the United Kingdom Government would see no objection to the United States proposal provided that a certificate containing the same information as was contained in a triptyque was made available. In discussion it was pointed out that the emphasis in this paragraph was on the *temporary* import and export of vehicles. It was, of course, clearly understood that vehicles imported as part of the force equipment could be assembled in the receiving State and used on the roads. After discussion it was agreed that this paragraph should be reworded to read as follows:

The temporary importation and the re-exportation of service vehicles under their own power shall be authorised free of duty on presentation of a triptyque in the form shown in the Appendix to this Agreement. The temporary importation of such vehicles not under their own power shall be governed by paragraph 4, and the re-exportation thereof by paragraph 8 of this Article. These vehicles shall be exempt from any tax payable in respect of the use of vehicles on the roads.

ARTICLE XI, par. 4

4. The Canadian Representative said that he wished to withdraw the proposed Canadian amendment.

5. The United States Representative withdrew the proposed United States amendment on the understanding that nothing in the existing wording precluded special arrangements being entered into between the sending State and the receiving State with regard to canteen supplies on the lines of those already existing between the United Kingdom and the United States. In order to clarify the whole position the words "by the receiving State" should be inserted after the word "permitted."

6. The Belgian amendment to paragraph 4 was accepted.

7. Danish amendment. The Danish Representative explained that the Article as at present drafted only covered exemption from

import duty and did not cover such things as exemption from quotas or other restrictions. It was not the wish of the Danish Government that such restrictions should be applied to the import of equipment for the forces.

8. The Chairman explained that the receiving State must retain the right to ban the import of certain prohibited articles, for example drugs. The main object of the present draft was to permit agreement to be reached between the sending State and the receiving State, under which reasonable quantities of provisions, supplies, etc., would be granted free entry. If however the quantity of supplies imported appeared to be unreasonable, free entry would not be granted by the [receiving]³ State. With regard to the point on import quotas, he thought that this would solve itself, since if the receiving State agreed to admit a given quantity of any goods, any import license which might be required under the regulations obtaining in the receiving State would be automatically granted.

9. The Canadian Representative wished to place on record his Government's view that there should be no discrimination between countries with regard to the duty-free import of these categories of goods. This understanding was confirmed.

10. In the light of the above explanations the Danish Representative withdrew his proposal.

11. It was also agreed to insert in paragraph 4 after the words "of a certificate" the phrase "in a form agreed between the receiving State and the sending State." The object of this amendment was to cover *inter alia* the import of top secret equipment. In such cases the receiving State would normally accept a certificate from the sending State that the import in question consisted of classified material.

ARTICLE XI, par. 5

12. The amendment proposed by Canada was accepted, and the paragraph was reworded to read:

A member of a force or civilian component may at the time of his first arrival to take up service in the receiving State, or at the time of the first arrival of any dependent to join him, import his personal effects and furniture free of duty for the term of such service.

At the suggestion of the French Representative the Chairman undertook to consider a redraft of this paragraph to cover the point that duty-free import should be restricted to articles already in use.

³ Original text: "sending."

ARTICLE XI, par. 8

13. In accordance with an amendment proposed by the United States, it was agreed to insert the number "2" before "4, 5 or 6" in both places where these numbers were used in the Article.

14. In accordance with the amendment proposed by Denmark, it was agreed that subparagraph 8(b) should be reworded to read "the authorities concerned of the receiving State" in place of the words "the customs authorities."

ARTICLE XI, par. 12

15. The French amendment to paragraph 12 was accepted, and it was agreed to add to the English text the words "except dues and taxes in respect of services rendered."

16. The United States Representative proposed that two new paragraphs should be added to Article XI. The first of these paragraphs stated that the provisions of this Article would also apply to persons or things in transit. This amendment was adopted.

17. The object of the second paragraph which it was proposed to add, was to specify that the word "imported" would include things withdrawn from customs-bonded warehouses or continuous customs custody. This provision was designed to prevent a number of difficulties arising out of United States customs legislation. The Chairman pointed out that things deposited in bonded warehouses might be either things imported by an agent of the forces, or things imported by the forces themselves, or things imported through normal trade channels, or lastly things manufactured in the receiving State and deposited in a bonded warehouse before re-exportation. He considered that it would be difficult in the case of the latter to accept the possibility of importation free of duty.

18. The Portuguese Representative proposed that the things imported should be defined as those originating from a foreign country and that this definition should be inserted into paragraph 12 of Article XI. This proposal was adopted.

III. Article XIII.

19. The French Delegation proposed that in paragraph 1 of Article XIII the words "customs and fiscal" should be deleted before the word "authorities." This proposal was adopted.

20. The Belgian Representative expressed the view that the text of paragraph 4 of Article XIII should not be worded in such a way that it implied the obligation to hand over the vehicles or

articles belonging to members of a force. After some discussion, it was agreed that the text should not be altered, on the understanding that the obligation to hand over a vehicle or article only applied to those belonging to the force itself and not to those belonging to an individual member of this force.

IV. Article XV.

21. The Netherlands proposal to delete the reference to paragraph 4 from the text of paragraph 1 of Article XV was adopted. The amended wording of the English text in the same paragraph, as proposed by the United States Representative, was adopted.

V. Articles XVI and XVII.

22. In Article XVI, on the proposal of the United States Representative, the term "North Atlantic Treaty Organisation" was deleted and replaced by the phrase "the Council as established in accordance with Article 9 of the North Atlantic Treaty, or any other subsidiary body of the Council authorised by it and acting on its behalf." It was agreed that the same text would be adopted for the second sentence of Article XVII.

VI. Article XVIII.

23. The United Kingdom Delegation proposed an amendment to Article XVIII, to the effect that the following phrase, "subject to the approval of the Contracting Parties and to such conditions as they may decide," should be inserted after the words "the present Agreement shall, . . ." The Working Group recognized that it would be advisable to amend the wording to this effect, and agreed to request the Chairman to prepare a new text for this passage.

VII. Article IX.

24. The Working Group proceeded to consider Article IX. In paragraph 3, the Working Group agreed to replace the phrase, "After agreement between the authorised representatives . . ." by the following wording: "Subject to such bilateral Agreements as are already in force or may be concluded between the authorised representatives . . ." The French Representative pointed out, however, that he might have to raise the question of principle concerning these Agreements again, when the first Articles of the Convention came up for discussion.

25. In paragraph 4, an amendment to the French text which had been proposed by the Belgian Representative was adopted. The English text remained unchanged.

26. In the same paragraph, the Canadian Representative pointed out that if the labor legislation were too strictly applied, a number of difficulties might arise, and that, instead of referring specifically to the labor legislation of the receiving State, it would be better to refer merely to the standards in force in that State. A number of Representatives remarked that it would be difficult for subordinate officials to refer to anything other than a specific text. The Working Group finally agreed to abide by the original text, on the understanding that the Summary Record would mention that each State was free to give a liberal interpretation of the labor legislation in force when issuing memoranda on the manner in which the provision should be applied.

27. Before the word "members" in the English text of paragraph 5, the word "their" was replaced by "its."

28. The Netherlands Representative proposed that a new paragraph should be inserted concerning the terms under which a force could be supplied with local currency without disturbing the monetary balance in the receiving State. The Working Group agreed that it was not in a position to discuss this amendment at the present meeting and postponed its consideration to a subsequent meeting.

VIII. Article X.

29. With respect to Article X, the French Representative said that he would prefer a text listing the fiscal exemptions to be enjoyed by the persons covered by the Agreement, rather than a general statement of principle. If the Working Group did not consider that it was feasible to make such a list, he wished it to be clearly understood that:

- (a) the text did not apply to taxation levied on occupied premises (assessment on income);
- (b) the text did not apply to income tax insofar as it was levied on income derived from a source in any State other than the receiving State, but applied to tax levied on income derived from sources within the receiving State.

The Working Group agreed with this interpretation of the Article.

30. On the proposal of the United States Representative, the word "legal" was inserted before the word "incidence" in the first line of paragraph 1.

31. The Canadian Representative requested that consideration should be given to the possibility of extending the tax exemption of this Article to dependents of the members of a force or civilian component. This proposal was criticized by several Representatives. It was agreed that this question would be reserved for later consideration.

32. On the proposal of the Netherlands Representative, the words "residence or" were inserted between the words "change of" and the word "domicile" in the English text of paragraph 1.

33. The proposal to replace the word "paid" in the English text of paragraph 1 by the word "granted" was rejected.

34. The Norwegian and Danish Delegations proposed the deletion of paragraph 2 concerning the taxation of a member of a force or civilian component with respect to any profitable enterprise other than his employment as such member by the sending State. Consideration of this question was reserved for a subsequent meeting.

35. The United States Representative proposed that a new paragraph should be added to the effect that, in the sense of this Article, the term "member of a force" did not include persons who were nationals of the receiving State. He said that the paragraph which it was proposed to add should be considered in connection with the previous Canadian proposal to the effect that the possibilities of tax exemption should also extend to dependents. A number of delegations reserved their position. It was agreed that the question would be reconsidered at a forthcoming meeting.

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MS-R(51) 13

Summary Record of a Meeting of the Working Group on Status, 23 April 1951

I. Amendments Proposed to Article I of the Draft Agreement.¹

1. The Chairman recalled that a draft amendment to Article IX, which had been submitted by the Netherlands Delegation, had still to be discussed in connection with the fiscal and financial questions. He proposed that the discussion on this point should be postponed until the various delegations had been able to obtain instructions.

¹ Reference: D-D(51) 57 (28 February 1951). For a list of the documents containing the amendments proposed by various delegations, see MS-R(51) 10, par. 1, note 2, *supra* (19 April 1951).

2. With regard to the program of work, he would like, if possible, to complete the first reading of the draft Convention on the Status of the Armed Forces and the discussion of the proposed amendments by the end of the following day. The meetings held at the end of the week could then deal with the draft Convention on the privileges and immunities of NATO civilian staff. The new text which had been circulated raised a number of difficulties for the United Kingdom Government, and the Chairman feared that he would not receive instructions before the end of the week. He would endeavor to obtain these instructions with a view to enabling the discussion on this text to be held on Thursday or Friday, 26 or 27 April 1951.

3. The Canadian Representative said that his Government would like to see a similar provision to that contained in Article XV of the Convention on Immunities and Privileges inserted into the sixth Part of the aforementioned Convention on the Immunities and Privileges of NATO civilian staff. If this proposal was not adopted, the Canadian Government might be obliged to make certain reservations on the application to Canadian civil servants of the Convention on the Immunities and privileges of NATO civilian staff.

ARTICLE I(a)

4. The Working Group proceeded to the examination of the amendments proposed to Article I of the draft Convention on the Status of the Armed Forces. The first amendment had been proposed by the United States Delegation, to the effect that in paragraph (a) the phrase "in the North Atlantic Treaty area" should be substituted for "in connexion with the operation of the North Atlantic Treaty." The reason for this proposed amendment was that it was often difficult to decide whether or not forces were present in one of the member countries in connection with the operation of the Treaty. The United States Delegation feared that the present text might lead to considerable administrative difficulties.

5. The Belgian Representative remarked that it was a frequent occurrence for Netherlands troops to enter Belgium to carry out maneuvers in her territory. The presence of these troops had no connection with the North Atlantic Treaty. If the United States proposal were adopted, however, they would be covered by the Convention, which was clearly contrary to the spirit of the Convention. He proposed that the United States wording might be adopted, if the receiving State were left free to decide that troops present in its territory did not come within the provisions of the Agreement.

6. The Chairman thought that no unilateral decision could be taken in this connection.

7. The Danish Representative, supported by the Norwegian Representative, opposed the United States request. He thought that members of a force who might be present in Denmark on leave, for example, could hardly be covered by the Agreement.

8. The Canadian Representative considered that it should also be specified that the text referred to members of this force taken collectively.

9. The Chairman thought that the Article in its present wording clearly intended to refer to the force in the collective sense of the term since, whenever reference was intended to an individual member of a force, the term "member of the force" was used throughout the Convention.

10. The Working Group recognized that the Article should be so amended as to provide for possible exemptions to the general rule and not to exclude the case of members of a force on leave in the same State in which their force was present. It finally adopted the wording proposed by the Chairman, according to which paragraph (a) would read as follows:

Subject to any Agreement to the contrary between the receiving and sending States, "force" means the personnel belonging to the land, sea or air armed services of one Contracting Party when in the territory of another Contracting Party in the North Atlantic Treaty area in connexion with their official duties.

11. The next amendment was submitted by the Portuguese Representative. He pointed out that under the present text, nationals of the receiving State who were members of a foreign force present in the territory of the receiving State, could escape by this means from the application of the laws of their country. He thought it would be unfortunate if there were any difference of treatment between a Portuguese soldier, for example, who was a member of the Portuguese army, and a Portuguese soldier who was a member of a United States force present in Portugal. The same restrictions should be adopted for the members of a force as for those of a civilian component.

12. The Chairman said that the examination of the Convention showed that only paragraphs 2 and 5 of Article III could justify the fears expressed by the Portuguese Representative. He further pointed out that the text of Article I was not intended to apply to the members of the force but to the force taken as a whole. Lastly, it might be dangerous in certain cases, under Article VII and Article VIII, for example, to withdraw the privileges given under

the provisions of the present Convention, from nationals who were members of a force. He proposed that, as the examination of the Convention proceeded, each paragraph should be considered from the point of view of deciding whether or not its proposals should apply to those nationals of the receiving State who were members of a force present in that State, and whether it was necessary to amend the paragraph in question. In the event that such examination led to the conclusion that a general provision should be inserted into the Convention, the Portuguese proposal to amend Article I would be reconsidered.

ARTICLE I(b)

13. With respect to paragraph (b), the French Representative proposed that the definition of the civilian personnel should specify that such personnel should possess the nationality of the sending State. Problems difficult to solve might arise, particularly under the application of Article VII, if the members of the civilian component belonged to a third nationality or were stateless.

14. The United States Representative argued that under United States military regulations, civilian personnel accompanying the forces were subject to the same discipline as the military personnel. Moreover, the United States would certainly include in the civilian component persons belonging to a different nationality from that of the sending or receiving States. The restriction proposed by the French Representative would leave members of a civilian component belonging to a third nationality without protection.

15. The French Representative said that the French Government was primarily concerned to obviate those difficulties which would arise at the time of entry into France of persons not belonging to the nationality of a NATO country or stateless persons. In some cases, such persons would be liable to be refused entry by the French Government.

16. The Chairman proposed that Article I (b) should specify that the Agreement covered members of a civilian component who were not nationals of the receiving State, and further were neither stateless nor the nationals of a country other than the NATO countries.

17. The French Representative signified his willingness to submit this new wording to his Government.

ARTICLE I(e)

18. In paragraph (e), the Belgian Representative thought that

the definition of the receiving State should mention the civilian component as well as the force. Otherwise, cases might occur where a member of a civilian component passing in transit through a country in which no force was present might not be covered by the Agreement. This amendment was adopted.

PROPOSED ADDITIONS TO ARTICLE I.

19. The next amendments, which related to the addition of new paragraphs and were submitted by the United States and the United Kingdom respectively, were reserved for subsequent consideration in connection with the general question of deciding to which territories exactly the Agreement applied.

20. The Chairman proposed that Article I should be completed by the insertion of the definition of the North Atlantic Council in the terms of the text adopted at the previous meeting for Article XVI and XVII. The text of these Articles would be amended with a view to including only a reference to the definition given in Article I. This addition was adopted.

II. Amendments to Article III.

ARTICLE III, par. 1

21. In Article III, paragraph 1, the Portuguese Representative proposed that the words "and immigration inspection" be deleted. The Portuguese Representative [argued]² that exemption from immigration inspection might enable undesirable individuals to enter the receiving State.

22. The United States Representative pointed out that this provision was essential where the entry of personnel into the United States was concerned. Otherwise personnel would be compelled to comply with normal immigration procedure on entry into the United States.

23. It was agreed that the text should be retained unchanged, subject to this explanation and to the fact that every country would be free to apply special measures if it desired thereby to exercise stricter control over the entry of personnel.

ARTICLE III, par. 2(b)

24. In paragraph 2(b), the United States Representative proposed the addition after "issued by an appropriate agency of the send-

² Original text: "agreed."

ing State” of the phrase “or of the North Atlantic Treaty Organisation.” This provision was necessary in order to prevent difficulties arising when SHAPE or other international Headquarters directed their members on missions. This amendment was adopted.

ARTICLE III, par. 4

25. In the last line of paragraph 4, the United States proposal to replace the term “such person” by the word “member” was adopted. The French text required no amendment.

26. The Danish Representative thought that it would be appropriate to include in paragraph 4 a provision specifying the right of the receiving State to detain and extradite to the sending State any deserters notified to the receiving State in accordance with the present text of paragraph 4. It should also be clarified whether the receiving State was under any general obligation to search for, detail and extradite such deserters or whether such action should be taken only at the request of the sending State.

27. The Italian Representative said that two cases might arise. A member of a force or civilian component who no longer belonged to that force or civilian component might be concerned; in this case he would merely be in the position of an alien and would thus be subject to the laws of the receiving State. In the case of a deserter, the general procedure to be followed was laid down in Article VII [III?]. He therefore thought it unnecessary to amend the text of paragraph 4.

28. The Working Group agreed to retain the present text of paragraph 4 of Article III.

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MS-R(51) 14

Summary Record of a Meeting of the Working Group on Status, 24 April 1951

I. Amendments to the Draft Convention on the Status of the NATO Forces: Article III.¹

ARTICLE III, par. 4

1. The Danish Representative recalled the proposal which he had made at the previous meeting to include a paragraph specifying

¹ Reference: D-D(51) 57 (28 February 1951). For a list of documents containing amendments proposed by the various delegations, see MS-R(51) 10, par. 1, note 2, *supra* (19 April 1951).

ing the right of the receiving State to search for and arrest any deserter notified to the receiving State with a view to handing them over to the sending State, without laying down that the receiving State should take such action only on request. It was not the intention to lay any obligation on the receiving State to take such action, but merely to provide that it was entitled to carry it out.

2. The Working Group was of the opinion that the existing position corresponded to that described by the Danish Representative and that it was unnecessary to amend the existing text of paragraph 4.

ARTICLE III, par. 5

3. The Representatives of the United Kingdom and United States both proposed that the scope of this paragraph should be extended to cover dependents. A discussion took place to decide, first, to what extent this addition was acceptable and secondly, to which extent it could apply to a request for removal or an expulsion order. In this connection the Portuguese Representative expressed the view that the case of nationals of the receiving State should be expected. Finally, the Working Group adopted the following wording:

“If the receiving State has requested the removal from the territory of a member of a force or civilian component, or has made an expulsion order against an ex-member of a force, or a civilian component, or against a dependent of a member or ex-member, the authorities of the sending State shall be responsible for receiving the person concerned within their territory or otherwise disposing of him outside the receiving State. This paragraph shall not apply to nationals of the receiving State.

II. Amendment to Article IV.

4. The amendment to paragraph (b) proposed by the Belgian Delegation to the effect that the words “or military driving permit” should be added after the word “licence” was adopted.

III. Amendment to Article V.

5. With regard to paragraph 1, the Portuguese Representative requested that it should be specified that members of a force might wear civilian dress on the same conditions as members of the forces of the receiving State. Certain difficulties might in fact arise in the case of members of a foreign force not wearing uniform. Moreover, it was reasonable to expect armed forces present in the same territory to be subject to the same regulations with regard

to the wearing of uniform. The United States Representative objected that the wearing of uniform was primarily governed by the military regulations and discipline in force in the individual countries, and that he considered that the regulations of a force could hardly be altered according to the receiving State in which it was present.

6. The Chairman fully appreciated the considerations of the Portuguese Representative and proposed the following text, which was adopted by the Working Group:

“but, subject to any arrangements to the contrary, the wearing of civilian dress shall be on the same conditions [as] for members of the force of the receiving State.”

IV. Amendments to Article VI.

7. For the same reasons as those which he had expressed in connection with the wearing of civilian dress, the Portuguese Representative requested that the possession and carriage of arms should be subject to the same regulations as those in force for the troops of the receiving State. Several members of the Working Group remarked that this was a different question. The commander of a military unit was alone competent to decide when the carriage or non-carriage of arms was justified. In the present case, the military regulations of the armed forces under consideration should take precedence.

8. The Working Group agreed to retain the existing text, subject to the reservation of the Portuguese Representative's position for the second reading of the Agreement.

9. The French Representative requested that the words “and possess” should be added in the same paragraph to the word “carry.” This made no difference to the general sense of the text, but from the legal point of view, it was necessary to foresee both cases. This addition was adopted.

10. The French Representative also said that it would be advisable to request SHAPE to lay down general regulations concerning the possession and carriage of arms, with a view to standardizing the regulations applying to all the troops under its command. The Working Group considered that a proposal to that effect could be included in the report submitting the draft Convention to the Deputies. Nevertheless, as strictly military questions were concerned, the Working Group could not do more than propose that SHAPE should be invited to consider the possibility and desira-

bility of drawing up standard regulations. An invitation to this effect should also be made to the Supreme Command Atlantic.

11. The Italian Representative wished a recommendation to be submitted to the Deputies to the effect that coordination in this field should be ensured among the various Committees in the different bodies which were dealing with this type of question. It was agreed that this proposal would be reconsidered at the end of the examination of the draft Convention.

12. The Belgian proposal appearing in MS-D(51) 17 to the effect that arms should be carried in such a way as to be visible, was withdrawn.

V. Amendments to Article VII.

ARTICLE VII, par. 1(a)

13. The Portuguese Representative proposed that the phrase "all jurisdiction and control" should be replaced by the phrase "all criminal and disciplinary jurisdiction." He stressed the point that, as the word "control" had a very broad sense, the existing text conferred administrative powers which were too wide on the authorities of the sending State.

14. The Canadian Representative expressed the view that the insertion of the words "all criminal and disciplinary jurisdiction" might restrict the application of this passage too far. There would be some cases where an offense was not criminal, but where the authorities of the sending State might nevertheless desire to take action. It was pointed out, on the other hand, that the text of this paragraph only applied to the exercise of criminal jurisdiction. The Canadian Representative objected that, in this case, the term "military authorities" was too narrow. Under Canadian law, certain powers of jurisdiction over military personnel were exercised by a civilian body. After some discussion, it was agreed that the term "military authorities" was here used in a broad enough sense to cover this eventuality and that the amendment requested by the Portuguese Representative could therefore be adopted.

15. In the same paragraph, several amendments had been submitted with a view to altering the categories of persons subject to the jurisdiction of the military authorities of the sending State. There were two alternative proposals: either to replace the existing phrase "all persons subject to the military law of the sending State" by the wording "members of its force or civilian component," or to add "dependents."

16. Several Representatives expressed the opinion that the existing wording was too comprehensive. Its effect would be to enable the [sending]² State to render anyone subject to its jurisdiction, merely by amending those provisions in the national legislation which specified which categories of persons were subject to military law. On the other hand, the deletion of the term "persons subject to military law" would prevent the sending State from exercising its jurisdiction in cases where it would be normal for it to do so (for example, in the case of a spy). It was argued in reply, that a distinction should be drawn between two separate problems: first, which persons were subject to military law, and, secondly, what were the powers of the military courts. In certain cases and in certain countries, persons who were not subject to military law (for example, nurses) were nevertheless subject to the jurisdiction of military courts. Lastly, a number of Representatives were doubtful whether dependents could be included.

17. The French Representative recalled that the existing text was already a compromise which had been reached after a lengthy discussion. He suggested that the difficulty might be solved by retaining the existing text as it stood, while adding the paragraph proposed by the Danish Delegation, which read as follows:

"The above provisions shall not imply any right for the military authorities of the sending State to exercise jurisdiction over persons who are nationals of or permanent residents in the receiving State, unless they are members of the forces of the sending State."

18. This proposal was adopted by the Working Group, subject to the Chairman's reservation of his position with respect to the definition of residents.

ARTICLE VII, par. 1(b)

19. The Working Group adopted the proposal of the Representatives of the United States and Belgium to the effect that the words "or dependents" should be added to the phrase "members of a force or civilian component."

ARTICLE VII, par. 2

20. The Chairman pointed out that the existing text appeared to preclude the receiving State from exercising jurisdiction in cases where an offense was committed against the laws of both the sending and receiving States. He thought that there were no

² Original text: "receiving."

grounds for precluding the receiving State from exercising such jurisdiction and proposed that the first paragraph should be amended as follows, under the designation (a) :

The military authorities of the sending State shall have the right to exercise exclusive jurisdiction over persons subject to the military law of that State with respect to offences, including offences to its security, punishable by the law of that State but not by the law of the receiving State.

The second subparagraph of paragraph 2 would then be designated by the letter (b).

21. The Working Group adopted the above amendment.

22. The next amendments, which had been submitted by Belgium, Canada and the United States, were withdrawn in view of the decision taken with respect to paragraph 1(a).

23. In paragraph 2(b), the United States Representative requested that the word "and dependents" should be added after the phrase "civilian component." This amendment was adopted.

ARTICLE VII, par. 3(a)

24. The comment of the Belgian Representative applied to the French text only. It was agreed that it would be taken into account at the time of the translation into French of the final English text.

25. In subparagraph (i), the words "or security" were inserted after the phrase "against the property," in accordance with the adoption of the United Kingdom amendment in paragraph 2.

26. The Canadian Representative proposed that in subparagraphs (i) and (ii) the word "offences" should be replaced by the phrase "acts or omissions." Several delegations also proposed further amendments to the definition of the offenses appearing in subparagraph (ii).

27. The first point discussed was whether subparagraph (ii) should include offenses committed in the performance of official duty. Several Representatives were of the opinion that they should be excluded. The United States Representative pointed out, however, that there was a possibility of offenses being committed in the performance of official duty; the military authorities of the sending State, and not those of the receiving State, were alone capable of deciding whether or not an official duty was being carried out at the time.

28. The Portuguese Representative proposed that, failing the deletion of subparagraph (ii), a provision should foresee the pos-

sibility of an appeal to arbitration in order to decide whether or not the act had been done in the performance of official duty. It was pointed out that such arbitration was not consistent with the speed required in the repression of criminal offenses. If grave difficulties of principle arose between the sending and receiving States, the general procedure laid down in Article XVI could always be adopted.

29. The Canadian Representative expressed the desire that, if his amendment were not taken into consideration, a provision should be inserted which would be analogous to the provision dealing with acts done in the performance of official duty which appeared in Article 20 of the draft Convention on Immunities and Privileges.³

30. The Italian Representative proposed that it should be specified that such act was done not only in the performance of official duty but also within the limits of such duty. He gave the example of a driver travelling between two towns on official business who for personal reasons deviated from the direct route. If an accident occurred in the course of the deviation, the driver was no longer acting within the limits of his official duty.

31. The United States Representative stated that for obvious reasons of military discipline, his Government would not be likely to accept the possibility of leaving any authorities other than the military authorities free to decide whether or not an offense had been committed in the performance of official duty.

32. The Working Group agreed that the sentence between square brackets should be deleted and that the rest of the text should be retained as it stood, subject to the Portuguese Representative's reservation of his final position.

MS-R(51) 15

Summary Record of a Meeting of the Working Group on Status, 25 April 1951

*I. Draft Convention on the Status of Armed Forces.*¹

1. The Chairman proposed that at the meeting to be held on the following morning the Working Group should complete the first reading of the draft Agreement on the Status of the Armed Forces.

³ MS-D(51) 25 (20 April 1951).

¹ Reference: D-D(51) 57 (28 February 1951). For a list of documents containing the amendments proposed by the various delegations, see MS-R(51) 10, par. 1, note 2, *supra* (19 April 1951).

The second reading of this document and of the draft Convention on Immunities and Privileges² would take place on the following Monday and Tuesday, 30 April and 1 May 1951, and the two drafts would then be forwarded to the Deputies for their discussion and approval. He did not consider it desirable that the substance of the new drafts should be reconsidered by the individual Governments. The Deputies could of course make any comments they wished, but this should not involve reconsideration by the Governments concerned of the substance of the document.

2. The Working Group agreed with the views expressed by the Chairman.

II. Amendments to Article VII.

ARTICLE VII, par. 3(a) (ii)

3. The Canadian Representative returned to the proposal which he had already made at the previous meeting. He was anxious that the Working Group should find a way to take into account the wishes of the Canadian Government with respect to this Article, otherwise a text should be inserted which would be based on the Article of the Convention on Immunities and Privileges dealing with the words and acts of NATO officials in the performance of their official duty.

4. The Chairman was of the opinion that this proposal could be taken into account. It was only a question of finding the exact wording, which could be considered at the second reading of the text.

ARTICLE VII, par. 5(a)

5. It was made clear that the term "authorities" applied not only to the authorities of the central government, but also to local and military authorities.

6. At the request of the United States Representative, the term "dependents" was added to paragraphs (a) and (b). It was not considered desirable to make the same addition to paragraph (c).

ARTICLE VII, par. 5(c)

7. At the request of the Belgian Representative, it was agreed that the phrase "member of a force or civilian component" should be added after the word "accused." No amendment was necessary in the French text.

² MS-D(51) 25 (20 April 1951).

ARTICLE VII, par. 5(d)

8. The Netherlands Representative proposed that a paragraph should be added, to read as follows:

“The authorities of the receiving State shall give sympathetic consideration to a request from the authorities of the sending State for assistance in carrying out a sentence of imprisonment pronounced by the authorities of a sending State under the provisions of this Article within the territory of the receiving State.”

This addition was adopted.

9. The Canadian Representative requested that a provision should be included to make the presence of witnesses also compulsory. After some discussion, the Working Group agreed that in paragraph 6(a) the words “and production of” should be added after the words “in the collection.”

ARTICLE VII, par. 6(b)

10. The United States Representative requested that the paragraph should be so amended as not to lay on the authorities of the sending State the obligation to send to the authorities of the receiving State all documentary material relating to prosecutions or trials. Any obligation to this effect would lead to considerable administrative complications and should apply only to the results of investigations. He also requested that a sentence should be added specifying that this information would also be forwarded when another State was concerned in the case.

11. After some discussion, the second proposal was rejected. With respect to the first proposal, the Chairman commented that the receiving State might find it useful to have the information, even if the case did not reach the trial stage. He would therefore agree to the amendment requested by the United States Representative, if it was interpreted to mean that the communication of such information was not restricted to cases which had been brought to trial.

12. The Working Group adopted a wording along the lines indicated by the Chairman, as follows:

“The authorities of the Contracting Parties shall notify one another of the disposition [of all cases]³ in which they have concurrent rights to exercise jurisdiction.”

ARTICLE VII, par. 7

13. The French Representative pointed out that this paragraph should also apply in the event of the pardon of a convicted person. The paragraph was amended accordingly.

³ Words in square brackets added by the editor.

14. The Canadian Representative proposed that in this paragraph, as in paragraph 3(a)(ii), the word "offence" should be replaced by the words "act [or]⁴ omission." The Chairman pointed out that this question had been previously discussed and that the word "offence" had been purposely inserted into this paragraph to meet certain difficulties described by the United States Representative. The Canadian Representative withdrew his amendment.

15. The United States Representative said that the existing text would mean that, under United States domestic regulations, the United States Army would be prevented from taking disciplinary sanctions against a member of a force who had been sentenced for an offense committed in a receiving State. He would like a new paragraph to be added, with a view to removing this bar to such disciplinary action. This paragraph would be worded as follows:

"Nothing in this paragraph shall prevent the authorities of the sending State from trying a member of its forces for violation of rules of discipline involved in the offence. Any findings favourable to the accused in the first trial shall be "*res judicata*," and any sentence rendered in the first trial, whether or not executed, shall be taken into account."

16. The Working Group adopted this addition. The Chairman wondered, however, if the second sentence served a useful purpose, and reserved the right to raise this point again at the second reading of the text.

17. The Portuguese Representative requested that a sentence should be added to the effect that, in the case of an offense punishable by a heavy sentence in the receiving State, steps could be taken to hand over the accused to the authorities of the sending State. The Chairman pointed out that the question had been dealt with in Article III, paragraph 5. The proposed addition was withdrawn.

18. The Portuguese Representative requested that the word "duly" should be inserted in the first line of paragraph 7 before the word "tried." The Working Group finally decided that the following phrase should be inserted instead: "in accordance with the provisions of this Article."

ARTICLE VII, par. 8(e)

19. The Chairman said that the Article should enable the accused to benefit from the facilities placed at his disposal for his defense in the receiving State, and particularly from those relating to legal

⁴ Original text: "of."

assistance. He accordingly proposed that the existing paragraph should be replaced by the following paragraph:

“To have legal representation of his own choice for his defence, or to have free or assisted legal representation under the conditions prevailing for the time being in the receiving State.”

This amendment was adopted.

ARTICLE VII, par. 8(g)

20. In accordance with a comment by the Canadian Representative, the words “of his Government” were replaced by the words “of the Government of the sending State,” for the reason that, in the case of a person belonging to a third nationality, it was still true that the sending State on which the force depended was alone responsible.

ARTICLE VII, par. 9

21. In the first subparagraph, the English text was corrected to read “they occupy” instead of “they have occupied.”

22. At the end of the second subparagraph, the phrase “such units or formations” was replaced by the term “the force.”

23. The French Representative said that he was now able to give the agreement of his Government to the text, in the light of the interpretation which he had been given at previous meetings and which appeared in the Summary Records.

24. The Canadian Representative requested that an additional paragraph should be inserted to the effect that when an offense was tried by a court of the receiving State, in passing sentence the court should take into account the penalty which would be imposed in the sending State for the same offense. Several Representatives pointed out that it would be practically impossible for magistrates of the receiving State to know what legislation would apply in the sending State, and that it was extremely difficult to draw comparisons between different criminal legislations. The amendment was withdrawn.

III. Amendments to Article IX.

25. The Working Group considered the Netherlands proposal that paragraph 7 should be amended and a new paragraph added with a view to laying down the conditions on which the forces of the sending State would be supplied with local currency. The Netherlands Representative stressed the point that this was a very delicate matter. During the war, the Netherlands had had experience of this kind of difficulty and had recalled that it was due to the absence of regula-

tions that the Black Market was kept supplied with foreign currency, which was eventually reflected in an adverse balance of payments. In principle, the members of a force should not have foreign currency at their disposal. All payments connected with the requirements of such forces should be made by the receiving State on behalf of the sending State, on the understanding that the latter would subsequently reimburse the former on terms to be agreed upon.

26. The Portuguese Representative expressed the view that it would be better to leave monetary questions out of this Agreement. Monetary questions would be settled much more satisfactorily through bilateral arrangements. The question was not as simple as it appeared in the Netherlands amendment. A number of States would probably be unwilling to make advances for payments to be incurred by the troops of the sending State. Moreover, there was no certainty that the receiving State would gain any ultimate advantage from too large an accumulation of credits with any given sending State.

27. The majority of Representatives expressed their agreement with the point of view of the Portuguese Representative. The Belgian Representative, in particular, considered that such questions could be settled under the provisions of Article XIV, paragraph 2.

28. The Working Group agreed that the discussion should be suspended on this point and should be resumed when the individual delegations had been able to consult their financial experts.

MS-R(51) 16

Summary Record of a Meeting of the Working Group on Status, 26 April 1951

I. Consideration of Points Previously Reserved.¹

1. The Working Group resumed consideration of the points which had been reserved for later discussion at the previous meetings.

II. Consideration of Article X.

2. The Chairman recalled that the French Representative had asked whether it would be possible to include in this Article the list of the various taxes with their definition. It was proposed that this list should be drawn up by the financial experts of the delegations

¹ Reference: D-D(51) 57 (28 February 1951). For a list of documents containing amendments proposed by the various delegations, see MS-R(51) 10, par. 1, note 2, *supra* (19 April 1951).

and considered at the second reading of the text at the meeting to be held on the following Tuesday, 1 May 1951.

ARTICLE X, par. 1

3. The Canadian proposal to extend exemptions from taxation to dependents, had been reserved for later discussion. Several Representatives expressed their objections to such extension. It was agreed that the question would be reconsidered at the second reading of the document.

ARTICLE X, par. 2

4. The Danish proposal to the effect that it should be indicated that nothing shall prevent the receiving State from levying taxes on members of a force or civilian component in accordance with the regulations governing the taxation of persons residing outside the receiving State, had been reserved for later discussion. This referred for example to the case of a resident in the United States of any nationality who might have sources of income in the United Kingdom and thus be liable to taxation in the United Kingdom. If he was recruited by the United States and sent to the United Kingdom on duty with a force, these circumstances should not enable him to evade paying the tax which was subsequently levied on his income.

5. The Working Group agreed that the following phrase should be added to paragraph 2: "all taxation to which he is liable under the laws of the receiving State, notwithstanding that he is regarded as having his residence or domicile outside the territory of that State."

ARTICLE X, par. 4

6. The United States Representative had proposed the addition of a paragraph to the effect that, for the purposes of this Article, the term "members of a force" did not include nationals of the receiving State. The object of this proposal was that a United States member of a force of a sending State present in the United States should not be exempted from United States taxation. This addition was adopted.

III. Consideration of Article XI.

ARTICLE XI, par. 4

7. The Canadian Representative requested that it should be specified that only one person would be authorized to certify the duty-free importation provided in this paragraph, in order to avoid abuses of the privilege thus granted. The text was amended accordingly.

8. The United States Representative recalled that, for security reasons, he had requested that military equipment should be exempted from the application of this Article. It had been understood that the necessary fiscal inspection of imports was no obstacle to the implementation of these security regulations. He feared however, that the obligation to present customs documents, and accordingly to describe the equipment on such documents, would raise a fresh obstacle. The Working Group provisionally agreed on a wording which provided that in the case of items of military equipment, it would be necessary to reach agreement on the customs documents to be presented.

ARTICLE XI, par. 12

9. The Chairman proposed that a definition should be given of the word "importation" instead of "import." This proposal was adopted. The Working Group examined all the paragraphs of the Article in the light of this definition and came to the conclusion that the definition could apply to all the paragraphs of this Article.

ARTICLE XI, par. 13

10. The Danish Representative pointed out that it was only necessary to refer to goods in transit, and not to persons in transit. Persons were subject to the general regulations, and, in any case, customs legislation applied to goods and not to persons. The Working Group agreed that the word "persons" should be deleted.

IV. Amendment to Article I.

11. The Chairman considered that the text of paragraph (a) previously adopted was not well drafted, and proposed a new wording which did not affect the substance of the Article. This wording was adopted.

V. Preamble of the Agreement.

12. The French Representative said that the French Government were considering the manner in which the Agreement might be presented in acceptable form to the Parliaments and public opinion of the various countries. This Agreement would have to be submitted for ratification, and would be published and therefore brought to the knowledge of everyone. Moreover, he thought it would be advisable to give a very close definition of the exact purpose of the Agreement. This precaution would probably facilitate the early signature and ratification of the document. He would therefore like to see specific statements to that end included either in the Agreement

itself or in the Preamble. The important point to make clear was that this Agreement defined the status of any forces which might in certain circumstances be sent abroad, but that it did not in itself lay down regulations concerning the decision to send forces, nor the special conditions (generally called "facilities") under which a force might disembark and take up its station in the country.

13. The majority of Representatives supported the French proposal, and expressed their preference for the insertion of a passage into the Preamble. The Working Group finally agreed to insert the following passage into the Preamble:

"Considering that the forces of one Party may be sent, by arrangement, to serve in the territory of another Party; desiring to define the status of such forces, while in the territory of another Party; bearing in mind, however, that the decision to send them and the conditions under which they will be sent, in so far as such conditions are not laid down by the present Agreement, will continue to be the subject of separate arrangements between the Parties concerned."

VI. Additional Article on Colonial Territories.

14. In the name of the United Kingdom Government, the Chairman proposed a draft additional Article, designed to cover the case of colonial territories. He explained that the object of this Article was to meet certain constitutional requirements of the United Kingdom. A number of United Kingdom colonies were within the Treaty area, but it was possible that no force would be stationed in their territory. There would therefore be no need to apply the Convention in their case. On the other hand, bilateral arrangement had already been concluded by the Bermudas and the Bahamas, and the United Kingdom Government would not wish to alter them. Lastly, certain colonies had autonomous status, which meant that, if their consent had to be obtained, the ratification of the Agreement by the United Kingdom Government themselves would have to be delayed until such consent had been given. This was the reason for the insertion of clauses, the main intention of which was to provide that the Convention could be applied separately to each colony in accordance with a procedure to be determined.

15. The Portuguese Representative pointed out that a special problem arose in connection with the Azores, which were not indeed a colony, but part of the metropolitan territory. Portugal and the United States had entered into special arrangements in this matter, and the Portuguese Government would not wish to alter them. The Portuguese Government would therefore be obliged to make a formal

reservation regarding the application of this Convention in the Azores.

16. The Canadian Representative stated that his Government might also encounter certain difficulties with respect to Gander and Newfoundland.

17. The French Representative said that he also had to deal with a complicated situation on account of the fact that the Treaty area included either territories which were integrated into metropolitan France, like Algeria, or colonies which had received the status of French Departments, or other colonies. He agreed that a wording should be found to meet the special difficulties which arose for individual member countries, and he requested time to give his consideration to such wording. It would moreover appear to him necessary to recall at the outset that the Agreement did not automatically apply to other metropolitan territories. In addition, special arrangements should be provided in the event of the application of the Agreement to certain colonies, in view of the special status of certain colonies.

18. The Working Group agreed to insert a provision stating that the Agreement applied only to metropolitan territories. With respect to the terms on which the Agreement could apply to other non-metropolitan territories, a wording would be discussed at the second reading of the document.

VII. Additional Article on Reservations.

19. The Canadian Representative requested that an Article should be added stating that, if reservations were made, they should be formulated not later than the time of signature.

20. A discussion followed to decide, first, whether reservations could be made, and, secondly, the time at which such reservations would be formulated. The Working Group recognized that the possibility of making reservations was a controversial question of international law, and that the Working Group as such could not settle the question in the present Agreement. Moreover, the constitutional practice of certain States, such as the United States of America, did not empower the Executive to sign an Agreement and make reservations without having first received the approval of the Senate.

21. The Working Group finally agreed that it was not possible to exclude reservations in general, but that they should be reduced to the minimum. In any event, reservations, to be valid, should be accepted by all Contracting Parties and should be formulated as soon as possible.

22. The Chairman observed that the question of SHAPE and the

Standing Group should also be considered, as well as that of military personnel attached to NATO civilian bodies, with a view to establishing whether this Convention on the military status of the armed forces would apply to them, or whether, on the contrary, they would be covered by the provisions of the Convention concerning civilian personnel.

23. The French Representative said that the French Government was at present engaged in negotiations with SHAPE, with a view to exploring the possibility of applying this Agreement on the Status to SHAPE or whether, on the contrary, it required amendment. He informed the Chairman that he would probably be able to give him the results of these proceedings and the opinion of the French Government in this connection, in time for the meeting to be held on Monday, 30 April, or Tuesday, 1 May 1951.

24. The Chairman said that in his opinion the question of the application of this Convention to SHAPE could be settled by a multilateral Agreement in the form of a protocol attached to this Convention, specifying which Articles would be applied to SHAPE and containing additional provisions appropriate only to SHAPE.

25. The Italian Representative was doubtful whether the Working Group should examine the question of SHAPE. He thought that it would be necessary for the Working Group to meet in order to consider which provisions of this Convention applied to the other agencies of the North Atlantic Treaty. In his opinion, the Working Group should then seek instructions from the Council Deputies as to whether it should continue its work with this end in view.

26. The Portuguese Representative did not share this opinion. He considered that, as SHAPE was an agency of the North Atlantic Treaty, the Working Group should examine the question whether this draft Convention could apply to it. He stressed the point that Portugal did not come under the authority of SHAPE but of SAC-LANT, and that it would also be necessary to consider whether this Convention was applicable with or without amendments to SAC-LANT as well as to SHAPE.

27. The Chairman said that in his opinion the Convention which should be submitted to the approval of the Deputies, accompanied regarding privileges and immunities of the international staff.

28. The French Representative stated that he was not certain whether this was the view of his Government, although he agreed with the United Kingdom Representative that the various members of the Standing Group were not national representatives and that most of them belonged to the diplomatic staff in Washington.

29. The United States Representative said that the United States

view was that provisions should be made to bring the convention into force provisionally. However, this would necessarily be by a separate understanding, since a provision in the present draft could be no more effective than the draft itself. The United States also recognized that certain provisions could be implemented only by legislative action, and intended that such provisional application should be made only insofar as possible in accordance with the laws of the Contracting Parties.

30. The Chairman said that such a measure would have serious disadvantages, for if a Convention were provisionally implemented without having been ratified, there would seem to be no point in the Governments subsequently taking steps to ratify it. Moreover, to implement a Convention provisionally, pending its approval by the various Parliaments, detracted considerably from its legal validity.

31. The French Representative stressed the point that there was nothing to prevent two Contracting Parties from taking the necessary steps to put this Agreement on the Status into force by means of a bilateral Agreement.

32. The Chairman said that in his opinion the draft Convention should be submitted to the approval of the Deputies(accompanied by a recommendation to the effect that the various Governments should be requested to take the necessary action to implement this Convention at an early date.

33. The Belgian Representative pointed out that the Brussels Treaty had never been ratified, but that whenever it had been necessary to take practical action in application of the provisions contained in that Treaty, in particular with respect to all customs questions, the various Departments concerned had been advised to follow the procedure laid down by the Brussels Treaty. The other Contracting Party had simply been requested to give the Belgian authorities sufficient notice of the entry or departure of a force or civilian component to allow the authority of the receiving State to take all necessary measures.

34. The Italian Representative emphasized that there was nothing to prevent any two Parties concerned from entering into bilateral Agreements. He said that negotiations were at present in progress between the Italian and United States Governments with a view to implementing this Agreement pending its final ratification, and stated that the Italian and United States Governments would probably sign a provisional Convention similar to the Convention under consideration in order to enable troops to enter Italian territory before the ratification of the draft Convention.

35. The Canadian Representative said that he was in the same

position as the United States Representative. Certain provisions of the Agreement could not be applied to Canada before the Canadian Parliament had given them the force of law, which meant that the Convention had to be ratified by Parliament.

36. As a result of this discussion the Working Group agreed that:

- (1) the amendment proposed by the United States Delegation would not be included in the draft Convention;
- (2) the draft Convention would be sent to the Council Deputies for consideration, accompanied by a recommendation inviting the Deputies to request their Governments to take all necessary action to enable provisional bilateral agreements to be concluded before the final ratification of this Agreement.

MS-R(51) 17

Summary Record of a Meeting of the Working Group on Status, 30 April 1951

I. Draft Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff.¹

1. The Working Group proceeded to the second reading of the draft Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff.

2. The United Kingdom Representative said that he had not yet received final instructions regarding this text. Several Representatives were in the same position. The Working Group discussed the procedure to be adopted for the consideration of this document and finally agreed that it would be advisable for the Working Group to arrive at a text which the Governments could be expected to find acceptable, before submitting it to the Council Deputies. Rather than submit to the Council Deputies a document in which too many passages were still the subject of disagreement, it would be preferable to hold a second meeting. For the time being, the Chairman proposed that the document should be considered article by article, with a view to ascertaining which paragraphs were still the subject of conflicting views.

ARTICLE 1

3. Several Representatives observed that the definitions appearing in Article 1 did not make the position of the Council Deputies in the Organization sufficiently clear. It was finally agreed that a para-

¹ Reference: MS-D(51) 25 (20 April 1951).

graph (b) should be added to the effect that "the Council" meant the Council itself and the Council Deputies. Paragraph (c) was amended accordingly.

ARTICLE 2

4. The Chairman doubted whether this passage now served any useful purpose. He proposed that it should be reserved for later consideration, when the discussion of the whole document had been completed.

ARTICLE 3

5. Several Representatives pointed out that it was hardly possible to state at this stage that Article 3 did not apply to the Standing Group. Although a plan was now under discussion to establish the status of the NATO civilian organization, the position was not the same with regard to the military organization. It was impossible to say whether the latter would subsequently be subject to the Convention on the status of the armed forces or to the present Convention on the NATO civilian status. The case of military personnel to be attached to NATO civilian agencies should also be considered. A number of Representatives expressed the view that such military personnel should be subject in any event to the convention on the military status, whereas others considered that they should be governed by the Convention on the status of the agency to which they were attached. The Working Group finally adopted the second point of view. It was agreed that the text would be redrafted by the Chairman in the light of the discussion held by the Working Group.

ARTICLE 4

6. The United States Representative expressed the opinion that this passage was too vague and general and that, in many cases, it might prevent the receiving State from taking firm and prompt action in security matters. He accordingly requested either that the text should be amended or that Article 22 of the first draft submitted by the United Kingdom Government should be re-inserted.

7. The French Representative said that, although he was quite willing to see Article 4 amended, he could not agree to the insertion of former Article 22. This Article appeared only in the Agreement on the status of UNO specialized agencies² and not in the Agreement on the status of UNO itself.³ In view of the political character of NATO, the French Government considered that the Agreement on the status of UNO should be taken as a model. He thought therefore that he could more easily accept a new version of Article 4 than the

re-insertion of Article 22. The Working Group supported this view and invited the Chairman to draw up a new text.

ARTICLE 5

8. The Portuguese Representative observed that the clauses of the Convention relating to the Organization's juridical capacity and right to acquire property should not conflict with the provisions of the national law in the individual countries. In Portugal, the Organization could be regarded either as an alien entity in public law or as a perpetual association for public purposes. In either case, it would be subject to certain restrictions with respect to the acquisition of immovable property. In the first case, these restrictions were imposed by virtue of Article II of the Portuguese Constitution, which stipulated the conclusion of a reciprocal agreement. In the second case, these restrictions were imposed by virtue of Article XXXV of the Civil Code, which stipulated that immovable property could only be acquired when it was necessary to the achievement of the objects of the Organization. He therefore proposed that paragraph 1 of Article 5 should be expanded to include a wording to the effect that the acquisition and disposal of immovable property would be governed by the legal provisions of the receiving State.

9. Several Representatives pointed out that the Organization could clearly neither acquire nor dispose of immovable property except in accordance with national law and that there could be no special private law for NATO. Moreover, the additional passage requested by the Portuguese Government did not appear in other international Conventions. To include it in the NATO Convention would be to cast doubts upon previous international Conventions. It would therefore be preferable to retain the present text, which was consistent with previous texts.

10. The Working Group was of the opinion that there was no doubt that the NAT Organization could only acquire or dispose of immovable property in accordance with national law, and that the addition requested by the Portuguese Representative was accordingly superfluous.

ARTICLE 5, par. 2

11. The United States Representative requested that this paragraph should be expanded to rule out the possibility of subordinate agencies of the Organization acting as independent juridical persons. This was not a mere question of procedure; it was an important point

² 33 UNTS 262 (21 November 1947).

³ 1 UNTS 15 (13 February 1946).

of substance to make it clear that any property could be acquired only by the Organization itself, but not by one of its agencies.

12. The Working Group considered that the provisions stating that only the Organization possessed juridical personality were adequate for this purpose and agreed that paragraph 2 should be deleted as unnecessary.

ARTICLE 7

13. The Portuguese Representative could not accept a provision which had the effect of rendering the Organization immune from expropriation for public purposes. If circumstances made it necessary, the Organization should not be entitled to oppose any action required in the common interest. He proposed that it should merely be stated that the Organization enjoyed the same privileges and immunities as foreign Embassies and Legations.

14. A discussion followed on the nature of the Organization's rights. It was recognized that the regulations governing foreign Embassies would not always be suitable for NATO and further, that Article 4, relating to the abuse of privileges, could in any case be invoked to settle any dispute if, for example, by virtue of the present Article 7, the Organization were to oppose any action directed towards expropriation for public purposes, when such action was unquestionably necessary. The Working Group recognized that this was a matter for judicious interpretation in the light of practical considerations and agreed that the existing text should be retained.

ARTICLE 10, par. (b)

15. The Chairman proposed that in the interests of clarity the word "required" should be replaced by the phrase "imported or exported." This amendment was adopted.

16. The United States Representative considered that the exemption from restrictions on imports and exports should be interpreted as meaning restrictions on quantity and not on quality. At his request, the adjective "quantitative" was added to the word "restrictions," subject to the Chairman's reservation of the view of the United Kingdom customs experts.

17. On the proposal of the Belgian Representative, the Working Group replaced the word "sold" by the phrase "disposed of by way either of sale or gift" in order to make the text more specific.

ARTICLE 12

18. The United States Representative was not satisfied with the text as it stood. The United States Government, on their side, had

granted reduced telecommunications rates in its territory, to a large number of States; in some cases these rates were an inconvenience and they were endeavoring to abolish them. Moreover, the telecommunications network in the United States was in the hands of private industry and the existing text, which provided that NATO should enjoy the most favorable treatment, might be a source of difficulty.

19. The United Kingdom Representative was also dissatisfied with this text, and reserved the right to propose an alternative procedure at a later date.

20. It was agreed that Article 12 would be reserved for future consideration.

ARTICLE 19

21. The Working Group agreed that the first line should be so worded as to make it clear that the text referred to officials of the Organization.

ARTICLE 20, par. (b)

22. This article provided that officials of the Organization shall be exempt from taxation on their salaries and emoluments and also from social security assessments. The Netherlands Representative expressed the view that these provisions implied inequality between national officials of the same grade according to whether they were employed in an international organization or in their own government department. The Netherlands Government considered that it was a questionable procedure to exempt nationals employed in an international organization and would prefer the system worked out by the fiscal experts of the Powers signatory to the Brussels Treaty, which specified that all officials employed by the organization would be taxed for the benefit of the organization. He readily understood however, that a matter of this kind would have to be gone into more thoroughly and could not be incorporated in [the] present draft. He accordingly requested that in these circumstances a sentence be inserted stating that the existing text could be later amended by an exchange of notes among the Contracting Parties if they subsequently came to an agreement on another method of settling the question of taxes. Pending an agreement on another system of taxation, the Netherlands Government, when signing the Convention, would probably be obliged to make a reservation with respect to the exemption of the nationals of the Power in whose territory the Organization was established.

23. An initial discussion was held on the form in which amendments might be made. It was generally recognized that an exchange of notes is an extremely unwieldy procedure and that it would per-

haps be more straightforward to adopt the procedure of an exchange of notes between the individual Governments and the Organization itself.

24. The United States Representative expressed his agreement in principle with the statement made by the Netherlands Representative. In the United States, however, an international agreement became "law" by ratification and it was impossible to amend it merely by an act of the Executive.

25. The Belgian Representative considered that, whatever fiscal procedure was adopted for NATO officials, it was essential that the matter should be studied, not only from the point of view of taxes in particular, but also from the point of view of the general status of international officials. A meeting should be called of competent experts, including representatives of the various Ministries concerned (particularly the Ministries of Foreign Affairs, Finance and Justice), with a view to arriving at recommendations within the NATO framework which might afterwards be used within the broader framework of other international organizations. He would like a reference to a recommendation on these lines to be included in the covering report.

26. The United Kingdom Representative thought that if a system of exemptions were not adopted for all countries, it would be very difficult to obtain Parliamentary ratification of a Convention implying the exemption of United Kingdom officials but not of the officials of any other nationality.

27. The Secretary pointed out that in any event the Deputies had agreed on a salary scale similar to the OEEC scale, specifying that such salaries were not subject to tax; accordingly, if any taxes were levied, the salaries in question would have to be raised and the member States of NATO would therefore have to increase the size of their contributions.

28. The United Kingdom Representative proposed that, in these circumstances, the OEEC text should be adopted, which simply provided that the fiscal exemption system would be the same as that granted to other international organizations.

29. The Canadian Representative proposed that the existing text should be retained with the addition of a sentence stating that exemption was granted on condition that a member State could tax its own nationals, unless the member State agreed to a system whereby the officials were taxed by the international organization itself.

30. The Working Group considered that for the time being it could do no more than insert the two texts side by side into the draft with a view to subsequent discussion of the matter.

31. The French Representative pointed out the ambiguous char-

acter of the existing wording of the provision stating that officials shall be exempt from social security assessments. Social security contributions were offset by considerable benefits. It was thus a very different matter from taxation. Exemption from social security contributions was accordingly a drawback rather than an advantage. Was it the intention of the present wording that officials should be exempt from contribution and at the same time excluded from enjoyment of social security benefits, or that they should be exempt from contributions but were nevertheless entitled to such benefits?

32. After some discussion, it was agreed that the text should be amended to state that officials were exempt from the obligation to contribute to the social security scheme. This did not preclude officials from contributing to the scheme if they so desired.

ARTICLE 20, par. (d)

33. The Canadian Representative and the Secretary explained that it was necessary to retain this Article in order to enable officials of the Organization who were only temporarily resident and not permanently domiciled in the country in which the Organization was located, to benefit from the currency regulations applying to non-residents. If they were subject to the regulations applying to residents, their relations with their country of origin would be made very difficult.

ARTICLE 20, par. (g)

34. The Belgian Representative requested that a paragraph be inserted with a view to allowing the duty-free importation of their private cars by officials of the Organization. He considered this amendment necessary since a number of countries did not include the private car in the furniture which might be imported duty-free as already provided by the draft Convention. This privilege was explicitly accorded to members of the armed forces, and there were no grounds for refusing the same privilege to the civilian staff of the Organization. The Working Group adopted this proposed addition.

ARTICLE 21

35. The Chairman reserved the view of the United Kingdom Government with regard to this Article. He also made it clear that the United Kingdom Government would not accord to NATO officials any exemptions connected with income tax, except with respect to taxes on remuneration received by them in their capacity as such officials.

ARTICLE 14

36. Article 14 was the subject of an involved discussion, from which the following main points emerged:

- (a) A number of Representatives raised objections to the existing text of the Article, which provided that the members of the staff of a national Representative entitled to enjoy diplomatic privileges would be designated by agreement with the Government of the receiving State. The Chairman explained that it was reasonable to expect the receiving State to desire to exercise a certain degree of control over the numbers of staff enjoying diplomatic privileges, in order to prevent those numbers from becoming inflated. It was recognized that the Article did not depart from customary practice in the designation of diplomatic staff and was not intended to limit the staff of national Representatives but merely to determine by agreement with the receiving State which among the staff would enjoy diplomatic status.
- (b) Only one principal permanent Representative to the Organization was foreseen in each of the territories in which the Organization had headquarters. It was made clear in the course of discussion that there was no doubt that this Representative had the status of the head of a diplomatic mission, with all the privileges accompanying this status.

ARTICLE 15, par. 1(d)

37. The Working Group agreed that the Article should lay down the right not only to receive but also to send correspondence by courier or in sealed bags.

ARTICLE 15, par. 1(e)

38. The United States Representative pointed out that Article 15 did not make it very clear that it was referring to Representatives who were temporarily present in the receiving State. The Chairman said that it was difficult to be more specific without overlooking a certain number of persons. The wording was necessarily somewhat vague, in order to ensure that no person was overlooked who might be working with national delegations. The Working Group finally agreed to retain the existing text, on the understanding that it applied primarily to Representatives whose presence in the receiving State was merely temporary.

ARTICLE 15, par. 2

39. It was agreed that the word "legal" should be inserted before the word "incidence" in the first line. No amendment was required to the French text.

ARTICLE 15, par. 3

40. The United States Representative proposed that the entire paragraph should be deleted. The Working Group adopted this proposal, on the understanding that the immunity from legal process referred to would continue to be accorded to Representatives, notwithstanding that they were no longer engaged in the discharge of their duties.

ARTICLE 15, par. 4

41. It was agreed that this paragraph should be renumbered as "paragraph 3" and that the word "alternates" should be replaced by the word "advisers."

ARTICLE 16

42. It became apparent in the course of the discussion on Article 16 that it was not very clear to what staff this Article applied. The Chairman stated that, as a general rule, it applied to secretarial staff (typists, registry clerks) accompanying temporary Representatives. It also applied to secretarial staff accompanying permanent Representatives insofar as, for one reason or another, such staff was not covered by the privileges accorded to the retinue of the permanent Representative, as provided under Article 14.

43. Several Representatives pointed out that the privileges laid down for staff referred to in Article 16 were incomplete, particularly with respect to the importation of furniture. It was finally agreed that the list of privileges covered by Article 16 should be expanded to include the privilege of the duty-free importation of furniture provided by Article 20, paragraph (f), and that a similar clause should be added to Article 15.

44. The Working Group agreed to request the Chairman to prepare a new text for Articles 14, 15, and 16. The French Representative stressed the necessity of preventing the insertion into the text of clauses too explicit in wording, which might be regarded as reflecting unfavorably on the States represented in the North Atlantic Treaty Organization. He would prefer to see the deletion of the entire clause requiring the approval of the sending State to the designation of staff entitled to enjoy diplomatic privileges.

ARTICLE 17

45. The Chairman pointed out that the wording of the last sentence of Article 17, relating to the case where immunity might be waived if, in the opinion of the member State, the immunity would impede the course of justice and if it could be waived without prejudice to the purposes of the Organization, was not reproduced exactly in Articles 22 and 24. It was finally agreed to amend Articles 17 and 24 to bring them into line with the wording of Article 22. It was also made clear that the term "in his opinion" applied not only to the phrase conveying the idea that the immunity would impede the course of justice, but also to the phrase stating that the immunity might be waived without prejudice to the interests of the Organization.

ARTICLE 18

46. The wording of the Article was amended to specify that the provisions of Articles 14 to 16 shall not require any State to grant any immunity or privilege to any person who was its national, or was or had been its Representative, or a member of the staff of the Representative.

II. Program of Work of the Working Group.

47. The Chairman said that he would be unable to obtain instructions from his Government before the end of the week. He wondered which would be the most appropriate procedure to follow in order to reach agreement at an early date. It was finally agreed that the Working Group would meet again on 15 May 1951, to reconsider the draft Agreement, in the hope that the Representatives would meanwhile have received firm instructions from their Governments, enabling them to reach a final agreement and thus to submit the document to the Deputies immediately after 15 May. It was pointed out that the uncertainty prevailing among the Representatives on the possibility of reaching agreement was mainly due to the fact that the view of the United Kingdom Government was not yet known. The Chairman undertook to inform the Representatives of his Government's view as soon as he was in a position to do so. If the United Kingdom view was such that it seemed unlikely that a useful discussion could be held on 15 May, the date of the meeting would have to be postponed.

48. The Chairman further invited the Representatives to notify the Secretariat as soon as possible of their observations in order that they might be circulated to all the members of the Working Group.

MS-R(51) 18

Summary Record of a Meeting of the Working Group on Status, 1 May 1951

I. Draft Agreement on the Status of Military Forces.¹

1. The Working Group proceeded to the second reading of the draft Agreement on the Status of the Military Forces.

PREAMBLE

2. The Working Group agreed that the considerations expressed in the preamble should be presented in a different order, placing the second consideration last.

ARTICLE I

3. The United States Representative recalled that, in connection with this Article, he had raised the question of the method whereby it could be made clear that the Agreement applied to the political subdivisions of a Contracting Party. This problem arose for the United States, since they were a federation, and the individual federal States had legislative autonomy. If no clause to this effect were included in the Agreement, the individual States would be free not to apply the Agreement and this might be the cause of considerable difficulties, such as those which had already arisen in connection with the Agreement on UNO.

4. Several Representatives expressed the view that, although they had no objections to the insertion of clauses to this effect, the wording should not be such as to create difficulties for non-federal States. If the proposed text could be interpreted as applying also to the administrative subdivisions of non-federal States, such as municipal authorities, the consequence would be that such States would have to lay down special legislation to find new resources to take the place of the municipal rates which would not be levied under the terms of the Agreement.

5. The Working Group endeavored to find a wording which would adequately cover both cases. Finally, it agreed on the following provisional text:

“This Agreement shall apply to the authorities of political sub-divisions of the Contracting Parties, within their territories to which the Agreement extends, in the same manner as it

¹ Reference: MS-D(51) 28 (27 April 1951).

applies to the central Government, of those Contracting Parties, providing however, that property owned by political subdivisions shall not be considered to be property owned by a Contracting Party within the meaning of Article VIII."

6. The United States Representative accepted this text for the time being, while reserving the right to have the question reviewed in the course of the discussion on the document by the Deputies.

ARTICLE III, par. 5

7. The United States Representative said that this Article should be so restricted as to ensure that the sending State would not be obliged to receive a person who was not a national of the sending State and who had been recruited locally. The Chairman pointed out that it would also be advisable to ensure that the receiving State was not precluded from handing over to the sending State a person of a third nationality recruited by the sending State and brought by the latter into the receiving State. The last sentence was amended to read as follows:

"This paragraph shall only apply to non-nationals of the receiving State who have entered the receiving State as members of a force or civilian component or their dependents or for the purpose of becoming such members."

ARTICLE VII, par. 1

8. It was recalled that it had been previously agreed that the phrase "persons subject to the military law" should be replaced by the phrase "members of a force or civilian component."

9. The Chairman pointed out that this paragraph did not call for the amendment which had been made in other Articles, since there was no risk of misunderstanding its meaning. The original wording was retained.

10. The French Representative was prepared to accept this wording, but felt bound to point out that the phrase "subject to military law" had a very restricted meaning in France in peacetime. This wording would therefore appreciably reduce the powers of France as a sending State. The French Government, on their side, would regard members of a force or civilian component as falling within the scope of the paragraph. The Italian and Belgian Representatives associated themselves with this statement.

11. The Working Group agreed that this official statement by the Representatives of France, Italy and Belgium should be placed on record.

ARTICLE VII, par. 3(a) (ii)

12. The Canadian Representative proposed that the provision should be expanded to include a further definition of offenses arising out of any act or omission done in the performance of official duty, which would be worded as follows in French: "et rentrant dans l'ordre des devoirs de l'intéressé." The Working Group came to the conclusion that it was very difficult to find an equivalent expression in English and, secondly, to define the circumstances in which an offense could be considered as falling within the limits of the duties of the person concerned. The point would chiefly arise in a few individual cases where special circumstances were involved: an example had already been given at a previous meeting (see Summary Record: MS-R(51) 14, paragraph 30).

ARTICLE VII, par. 5, 6 and 7

13. The Chairman proposed that these paragraphs should be replaced in a more logical order. This amendment was adopted.

ARTICLE VII, par. 7-8

14. The Working Group adopted the revised wording of this passage, which did not alter the substance, but was merely intended to clarify the meaning.

ARTICLE IX

15. The Netherlands Representative recalled that he had submitted a proposal to the effect that this Article should include provisions concerning the way in which forces were to be supplied with local currency. These provisions were designed to restrict the circulation of foreign currencies, to reduce to the minimum the local currencies made available to the troops of the sending State and lastly, to enable the receiving State to receive an exchange value in cash for the goods which it had supplied. The Netherlands Government now agreed that such provisions would be out of place in the present Convention. The proposed amendment was accordingly withdrawn. The Netherlands Deputy would, however, raise the question at the discussion to be held by the Deputies.

ARTICLE IX, par. 3

16. At the request of the Canadian Representative, the word "bilateral" was deleted from the beginning of the paragraph.

ARTICLE VIII, par. 1 and 3

17. The Belgian Representative considered that, although it had been the intention when wording this paragraph to place both parties concerned in a claim for damages on the same footing, this result had not been achieved. For example, if a French vehicle, which was used for NATO purposes and belonged to a French force in Belgium, caused damage to a Belgian service vehicle, only the damage caused to the French vehicle would be covered. The Chairman pointed out that the existing text covered the damage caused to both vehicles. He thought that it would be undesirable to delete the reference to the fact that the damage was caused by a vehicle used in connection with the operation of the North Atlantic Treaty, since in this case, the scope of this Article would become far too wide.

18. The Norwegian Representative, supported by the Danish Representative, said that his Government did not approve the present wording of paragraph 1 with respect to maritime damages. The definition given in the present text was too vague, particularly in view of the complexity of maritime insurance matters. He further considered that the present wording of paragraph 3 was unacceptable. In these circumstances, he would prefer to return to the original proposal put forward by the Netherlands Representative in MS-D(51) 21, to the effect that the scope of Article VIII should be restricted to men-of-war and to auxiliary technical vessels.

19. The Working Group discussed which types of vessels were or were not covered by the Articles in question. The Chairman said that, as far as insurance was concerned, all vessels were outside the scope of paragraph 3, with the exception of vessels for which the Contracting Party was its own insurer. He accordingly proposed that the term "or its insurer" should be deleted from the end of this paragraph. It would thus be clear that the merchant navy was outside the scope of this paragraph.

20. With respect to paragraph 1, the problem was to determine the category of auxiliary vessels. Were they or were they not owned by the armed forces of one of the member countries? The United Kingdom expert said that, as and when merchant vessels were converted for use as military transports, such vessels were no longer regarded as privately owned, and were taken over by the State. The Working Group finally came to the conclusion that this discussion, which involved complicated technical points connected with maritime law and insurance law, meant that it was impossible to reach a solution at this stage. It was agreed that the existing text would be retained for the time being.

21. The Norwegian Representative said that he was obliged to refer the point to his Government.

22. The Danish Representative requested that the record should make it quite clear that paragraph 1 did not apply to ships under the management of the Defense Shipping Authority, unless they were permanently withdrawn from the NATO Shipping Pool. It was agreed that this clarification would be the subject of an Addendum to Summary Record MS-R(51) 10.²

23. The United States Representative again raised the question of third party claims for compensation for damages arising out of maritime incidents. He thought that the scope of the Agreement should be wider and should include a procedure for settling such claims. If the Working Group agreed in principle to this proposal, the United States Government would be prepared to restrict the scope of this Article to territorial waters.

24. The Chairman pointed out that this object could be achieved by deleting the whole of subparagraph (h) of paragraph 5. The United States Representative said that the deletion of this passage did not dispose of the problem of the authority which should settle the dispute. In these circumstances, the United States Deputy would raise the question when the draft Agreement was under consideration by the Deputies.

ARTICLE VIII, par. 2(a) and (b)

25. The United States Representative returned to the arbitration problem. There was of course no question of casting doubts upon the integrity of the arbitration authorities of the receiving State. The United States Government merely pointed out that this paragraph was concerned with procedure of an international character and that disputes should therefore be settled in accordance with international law and custom. There were thus no grounds for stipulating that the arbitrator should be selected from among nationals of the receiving State alone.

26. The Italian Representative opposed the adoption of an amendment of this effect. The Italian Government preferred to abide by the wording of the first document as it had been drawn up after the discussion held in February (D-D(51) 57). The Chairman pointed out that the wording which the Working Group had most recently arrived at already represented a compromise with the United States view.

² This addendum supplied the text of the fourth and fifth sentences of paragraph 4 of MS-R(51) 10 (19 April 1951), where they have been inserted by the editor.

27. The Working Group agreed that the wording should be retained in its present form.

ARTICLE VIII, par. 2(f)

28. It was pointed out that the meaning of the first sentence following the table was not very clear. The Working Group agreed to return to the original wording which stated that the claim was waived, not if the damage was less than the amount shown in the table, but up to the amounts shown in the table.

ARTICLE VIII, par. 5

29. The Chairman thought that the Article was not clearly worded. The chief difficulty was to determine what type of responsibility was referred to in this Article. Was it a legal or a moral responsibility?

30. The Working Group finally agreed that the word "legally" should precede the word "responsible." This meant that the law of the receiving State would apply in the case of acts done by members of the force of this State. The paragraph was finally worded as follows:

"Claims arising out of acts or omissions of members of a force or civilian component in the performance of their official duty or any other act or omission or occurrence for which a force or a civilian component is legally responsible."

ARTICLE VIII, par. 5(e) (ii)

31. Although the Netherlands Representative did not propose any amendments to the wording, he wished it to be clearly understood that, where more than one State was responsible for the damage, the share of responsibility of each State concerned would be measured by the same yardstick. The Working Group agreed with this opinion and recognized that the share of responsibility should be decided in accordance with the law of the receiving State.

32. In paragraph (e), it was made clear that the receiving State was alone legally responsible and that it was not for the court itself to decide how the costs should be shared. It was incumbent on the receiving State to decide the degree of responsibility for the damage; the size of the various contributions was [to be] decided later in accordance with the provisions of the present Agreement. In the event that a court took it upon itself to distribute the amount

of compensation, it was understood that the Contracting Parties would disregard such distribution.

33. In paragraph (iii), the Chairman said that under United Kingdom law it was impossible to identify the author of the damage. The only possible course was to appeal to arbitration, as United Kingdom law ruled out the possibility of instituting proceedings against nominal defendants. The Working Group took note of the Chairman's statement.

ARTICLE VIII, par. 5(h)

34. The Chairman said that paragraph 5(h) should be reworded to bring it into line with paragraph 5(e).

ARTICLE VIII, new par. 7

35. The Chairman thought that it would be advisable to insert a new paragraph dealing with damages arising out of the unauthorized use of a vehicle. The Working Group adopted this proposal. The new paragraph was worded as follows:

"Claims arising out of the unauthorised use of any vehicle of the armed Services of a sending State shall be dealt with in accordance with paragraph 6 of this Article."

A clause was inserted into former paragraph 7, which now became paragraph 8, to bring it into line with the new paragraph 7.

ARTICLE VIII, former par. 8

36. The Working Group agreed that this paragraph should be deleted, which meant that States could avail themselves of immunity from jurisdiction before the courts of the receiving State. The Netherlands Representative reserved his position.

ARTICLE X, par. 1

37. It had been proposed at a previous meeting that the word "dependents" should be inserted into this Article. The Chairman said that he could not agree to include dependents in this passage. Dependents were under no obligation to enter the receiving State. Moreover, it was assumed that they were supported by the remuneration of the members of the force. If they wished to bring additional income derived from other sources into the receiving State, they did so at their own risk.

38. The Canadian Representative proposed that a clause should be inserted providing that, in the case of dependents not covered

by Article X, the States concerned should take steps to prevent double taxation. Several Representatives stressed the point that it was impossible to conclude agreements on double taxation solely for one particular category of person.

39. It was agreed that this question in particular would be brought to the attention of the fiscal authorities of the individual countries.

ARTICLE XI, par. 2

40. It was agreed that the three sentences of paragraph 2 should be designated by the letters (a), (b) and (c), in order that subsequent paragraphs could refer merely to paragraph 2(b), with which the subsequent paragraphs were alone concerned.

ARTICLE XI, par. 4

41. The English text was amended in accordance with the wording previously adopted, which stated that where duty-free imports were concerned an agreement would have to be concluded on the customs documents to be produced, in order to prevent the spread of military information.

ARTICLE XI, par. 12

42. At the request of the Belgian Representative, the word "bonded" was deleted from the term "bonded warehouses," as this adjective added nothing to the meaning and was liable to lead to confusion in the French translation. In addition, the definition of the word "duty" was amended in the English text in order to bring it into line with the French wording.

ARTICLE XX

43. The French Representative stated that his Government would probably be able to give their agreement to the text of Article XX, on condition that it was amended as follows:

- (a) In paragraph 2, the word "however" should be inserted at the beginning of the sentence in order to mark the contrast with paragraph 1.
- (b) The extension of the Agreement to any territory should be made subject, if the State making the declaration considered it necessary, to the conclusion of a special agreement between that State and each of the sending States. This amendment was necessary in order to make it possible to adapt the Agreement to certain colonies.

- (c) It should be stated that the Agreement shall extend to the territories named therein thirty days after the receipt of the notification of the extension, or thirty days after the conclusion of the special agreement applying the text to such territories.

44. The Working Group adopted this amendment.

II. General Procedure.

45. The Working Group discussed the program of its future work. It was agreed that the Chairman would prepare a covering report to the Deputies which would be as concise as possible. This report would state that a number of delegations had made reservations on certain points, but those points would not be described in detail. In order to ensure that the text submitted to the Deputies had the maximum chance of being rapidly adopted, it was agreed that the draft drawn up after this discussion³ would be transmitted as soon as possible to the Deputies, together with the request that they should seek instructions from their Governments. No time limit would be fixed for the communication of these instructions, but the hope was expressed that they would be given as soon as possible. The draft would then be placed on the agenda for consideration by the Deputies.

D-R(51) 37

Summary Record of a Meeting of the Council Deputies, 9 May 1951

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III. Report by the Working Group on the Status of Forces.

23. The Council Deputies had before them the report by the Working Group on the status of the armed forces containing a revise of the draft Convention, which had been proposed after taking into consideration the various amendments submitted by Governments.¹

24. The Chairman of the Working Group had indicated in his report that there were one or two points which certain Governments might wish to raise again when the draft was considered by the Council Deputies. In order to accelerate consideration of

³ D-D(51) 127 (7 May 1951), containing the revised draft of the Agreement and a covering report.

¹ D-D(51) 127 (7 May 1951), containing the revised draft of the Status of Forces Agreement and a covering report by the Working Group.

this revised draft, he suggested that it should be transmitted to the respective Governments immediately with the request for their comments to be submitted to the Council Deputies not later than 23 May. Any general comments which Governments might wish to make could then be placed on record when the draft was finally considered.

25. The Council Deputies:

- (1) agreed that D-D(51) 127 should be transmitted to Governments forthwith and that comments should reach the Council Deputies not later than 23 May.
- (2) agreed [subject to reservation by the United Kingdom]² that the Convention should be signed by the Council Deputies on behalf of their Governments.
- (3) expressed their appreciation to the Working Group for the speedy and efficient manner in which they had prepared the revised draft.

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D-R(51) 41

Summary Record of a Meeting of the Council Deputies, 24 May 1951

*I. Draft Agreement on the Status of NATO Forces.*¹

1. The Chairman² recalled that the draft Agreement which was now before the Deputies³ was the outcome of negotiations which had been carried out in two stages. One draft, which had been drawn up following a first series of meetings of the Working Group, had been referred to the Governments for consideration. When their observations had been submitted, the Working Group held a second session and agreed on the text which was now submitted to the Deputies and represented therefore a very large measure of compromise. The Chairman therefore hoped that no further amendments would be made on the substance of this document.

² The words in square brackets are found inserted by hand in copies of this Summary Record on file in both Paris and Washington. They are probably a later correction requested by the United Kingdom Deputy.

¹ Previous reference: D-R(51) 37, par. 23-25 (9 May 1951).

² United States Deputy.

³ D-D(51) 127 (7 May 1951).

2. Mr. Evans, Chairman of the Working Group, had no special comments to make, except that it had been suggested at a meeting of the Working Group that the Deputies might discuss the question of the provisional implementation of the Agreement before its ratification by the various Parliaments. The Working Group had not thought that it would be possible to provide for such provisional implementation in a clause of the Agreement itself, but that the Deputies might pass a resolution recommending their Governments to take steps to ensure such provisional implementation.

3. The United Kingdom Deputy said that his Government agreed to accept the text as it stood and also approved the way in which the Working Group had approached the problems of SHAPE and the Standing Group. He had no objection to a provisional implementation of the Agreement.

4. The Norwegian Deputy said that his Government was prepared to accept the Agreement, subject to the usual reservations regarding Parliamentary ratification. He wished, however, to place the following comment on record in connection with Article VIII, paragraph 1(ii) and paragraph 3, referring to damage caused by vessels. The Norwegian Government would have preferred the Agreement to apply only to men-of-war. His Government could, however, accept Article VIII in its present form, in view of the deletion of the words "or its insurer" from Article VIII, paragraph 3, which made it clear that the Agreement did not apply to ships which were insured, and in view of the provisions in Article XV regarding the application of the Agreement in the event of hostilities.

5. The Danish Deputy associated himself with the Norwegian Deputy's statement.

6. The Portuguese Deputy recalled that, during the discussions of the Working Group, the Portuguese Delegation had proposed, among other alterations, that the wording of Article VI, regarding the possession and carriage of arms, should be similar to that of the corresponding Article of the Brussels Agreement. They had also proposed the addition, to paragraph 3(a) (ii) of Article VII, of a provision leaving it to the arbitrator referred to in paragraph 2 of Article VIII, to decide when an offense had been committed in the performance of official duty. M. Queiroz requested that his Government's interest in seeing these alterations accepted be placed on record in the minutes of the present meeting.

7. The Portuguese Deputy went on to say that, if all member nations wished to approve the Agreement on the Status in its present form, he had instructions to state that the Portuguese Government, in their desire once again to smooth out difficulties even when they

were convinced of the rightness of their own point of view, would also give their approval to the present draft as it stood, and authorized their representative on the Council to sign the Agreement. He formally repeated, however, the reservation, which had already been made and justified in the Working Group, to the effect that this Agreement was only applicable to the territory of continental Portugal, with the exclusion of the adjacent islands and the overseas provinces.

8. With respect to the first point raised by the Portuguese Deputy, Mr. Evans explained that the reason for the present wording was that questions regarding the possession and carriage of arms should be left to the discretion of the authorities of the forces and not to those of the receiving State. With respect to the second point, the Working Group had considered that only the authorities of the force could decide in the case of an offense whether or not it had been committed in the performance of official duty. Since Article VII dealt with criminal offenses, it was desirable to ensure that punitive action could be taken as promptly as possible, which would rule out the possibility of intervention by an arbitrator.

9. The Netherlands Deputy said that his Government had welcomed paragraph 8 of Article VIII as it had appeared in the previous draft of 27 April.⁴ This paragraph gave an international rule regarding the competence of the courts of the receiving State in the case of contractual claims arising out of the performance of official duty. Under that rule, all Contracting Parties were placed in the same position. In the new wording, the paragraph concerned had been deleted, which meant that no rule of international law to this effect would now exist. As a result, each Contracting Party was free to follow its own law. At the moment, the law in the Netherlands was such that a foreign Government could not be brought before a Netherlands court. His Government wished it to be understood, however, that with the new text the Netherlands Government might very well alter the law if they considered that alteration necessary.

10. The second comment made by the Netherlands Deputy related to paragraph 7(b) of Article IX, which provided that all the goods and services furnished to a force or civilian component should be paid for in local currency. That rule offered the best solution to the problem of payment in peacetime. In time of war, however, it might frequently happen that goods or services which were furnished to allied forces could not be replaced on account of the shortage of the goods or transportation difficulties. The increased amount of local

⁴ MS-D(51) 28 (27 April 1951).

currency brought into circulation by allied purchases might thus exert a strong inflationary pressure, which would either drive up prices or, if prices were controlled, might lead to excess purchasing power. This might lead to traffic in scarce goods on such a scale as to disturb the economy of the receiving State. The Netherlands Government felt that it would not be fair for the ensuing burden to be borne in full by the receiving State; therefore, the payments effected in accordance with paragraph 7 of Article IX should only be considered as a provisional settlement, unless it were explicitly recognized as being a final settlement by the receiving State; in other words, after the hostilities had come to an end, it would be necessary to reconsider how a final settlement could be effected. The guiding principle should be that it was the real value of the goods and services delivered by the receiving State which should be taken into account in the conclusion of a final settlement between the sending State and the receiving State. Agreements on this basis should be concluded as soon as practicable, either during the war or afterwards. The Netherlands Government would therefore accept paragraph 7 of Article IX in its present wording only with the reservation that they receive from all other Contracting Parties, desirous of applying this paragraph in wartime on Netherlands territory, an assurance to the effect that they accepted the above-mentioned principle with regard to the Netherlands. The Netherlands Government were prepared, however, to state that all payments which were effected in time of peace would be regarded as final.

11. The Belgian Deputy associated himself with the statement by the Netherlands Deputy.

12. Mr. Evans said that the Working Group had not discussed this question, at least not in the form in which it was now presented by the Netherlands Deputy.

13. The Netherlands Deputy inquired whether the term "North Atlantic Treaty area," which appeared in Article XX, applied to the Mediterranean and to Malta, in particular.

14. The United Kingdom Deputy said that it was laid down in Articles 5 and 6 of the Treaty that it applied to "the territory of any of the Parties in Europe, etc." During the preliminary discussions in Washington, it had been agreed that this phrase should be interpreted as meaning that Malta and Gibraltar, but not Cyprus, would be covered by the Treaty.

15. The French Deputy said that, under French national law, Algeria was not an integral part of Metropolitan France. This did not mean, of course, that the Agreement did not apply to Algeria under the provisions of Article XX.

16. The Italian Deputy said that he would like to see an amendment made to Article VIII, paragraph 5(b), which would be difficult to apply in its present form in view of Italian national regulations. He proposed that the present wording should be replaced by the following text: "The receiving State may settle any such claims and pay the amount agreed upon or determined by adjudication, in its currency." A similar alteration would be required in paragraph 5(d) and paragraph 5(e).

17. Mr. Evans pointed out that this amendment would substantially weaken the force of the paragraph and might lead to the conclusion that the receiving State could exercise a discretionary right not to make the payment. He made it clear that the arrangement which was described in paragraph (b) by the word "settle" was intended to be a settlement by agreement with the Party concerned.

18. The Italian Deputy said that he could accept the alternative solution of retaining the present wording of paragraph (b), while amending paragraph 5 (b) and (d) by adding the phrase "or to be paid" after the word "paid."

19. The Luxembourg Deputy said that paragraph 5(f) of Article VIII provided that, in cases where a claim amounted to a figure which would cause one of the Contracting Parties serious hardship, especially when the country was small, a different method of settlement might be adopted with the agreement of the North Atlantic Council. The present wording restricted this possibility to the case of claims submitted under the terms of paragraphs (e) and (b) of paragraph 5 of Article VIII. He would like this possibility to extend to all cases in which a claim for compensation was submitted under the terms of Article VIII. This would not, of course, affect the procedural clauses of Article VIII. He proposed the following text which would become Article VIII, [paragraph] 11:

In cases where the application of the provisions of Article VIII would cause a Contracting Party serious economic or financial hardship, it may exceptionally request the North Atlantic Council to arrange a settlement of a different nature.

20. Mr. Evans said that the Working Group had not raised this question but that there appeared to be no objection a priori to the request of the Luxembourg Deputy.

21. The Canadian Deputy stated that the question was at present under consideration by the Canadian Cabinet and that he had not received firm instructions. He wished, however, to draw the attention of the Deputies to paragraph 2 of Article X. The end of this paragraph had been added in the course of the discussions of the Working Group, and the Canadian Government would be desirous of making

it quite clear that the additional passage is intended to provide only that members of a force or civilian component are not to escape any tax which, in the absence of an agreement, would be levied on them as non-residents. In other words, the Canadian Government wish to ensure that this provision does not constitute such a derogation from the general exemption given in paragraph 1 of Article X that members of a force or civilian component could be taxed as residents on everything other than salary emoluments and tangible movable property.

22. Mr. Evans replied that this addition in no way affected the other provisions of Article X. It had been inserted at the request of one delegation, and the other delegations had raised no objection to adding the wording in question. The following illustration of the object of the proposal had been given. A United States citizen, resident in the United States, owned property in the United Kingdom in respect of which he was liable to income tax. If he was recruited into a United States force and stationed in the United Kingdom with that force, this fact should not have the effect of exempting him from payment of the taxes to which he was previously liable.

23. The French Deputy stated that his Government was prepared to accept the Agreement in the present form. He recalled once more that this Agreement reflected a large measure of compromise and that it was important not to disturb the balance of views which had been established with great difficulty, particularly in the case of Article VIII, by inserting new provisions.

24. The Belgian Deputy was also prepared to accept the Agreement, subject to the reservation that no substantial amendment was made to the text.

25. The Chairman said that the Agreement would be regarded as a treaty. It would accordingly be subject to the normal United States legislative process, which involved ultimate ratification by the Senate and prior consultation with legislators. For these reasons he was not yet authorized to sign the Agreement. Subject to this reservation, the United States Government were prepared to accept the Agreement, but he was bound to make their position clear on the three following points:

- (a) The United States Government would wish the Agreement to exclude from the force as defined in Article I, paragraph 1, those military members of a diplomatic mission, such as military attachés or certain members of the United States Military Advisory Groups in Europe, who already enjoyed certain privileges. The status of such individuals could be settled by bilateral agreements.

- (b) The United States Government desired to set up a system of "Army Post Offices" for members of forces, civilian components and their dependents, subject of course to the laws of the receiving State and to the provisions of the Agreement relating to customs regulations, etc.
- (c) Lastly, they considered that a resolution should be adopted, a draft of which the Chairman circulated, with a view to providing for the provisional implementation of the Agreement before ratification.

26. With respect to the Chairman's first point, Mr. Evans said the text already provided for the possibility of bilateral agreements in the case of certain units and formations. In order to meet the wishes of the United States Government, it would be sufficient to add the words "or individuals" to the existing text.

27. The Icelandic Deputy recalled that an agreement between Iceland and the United States had been signed in Reykjavik on 5 May 1951, and that on 8 May 1951 an Annex to that Agreement had been signed concerning the status of United States personnel and property.⁵ While that Agreement was being negotiated, the London draft Agreement regarding the status of the forces of the North Atlantic Treaty Organization was borne in mind, with the result that the Agreement on the status annexed to the Iceland-United States Agreement followed the general lines of the London draft, although a few changes had been made to take account of local conditions. During the negotiations between Iceland and the United States, agreement was reached to the effect that privileges granted to the United States might, on certain conditions, be made applicable to the armed forces of the other parties to the North Atlantic Treaty. Since the status of the security forces in Iceland was provided for in the Annex to the Iceland-United States Agreement, the Icelandic Government were of the opinion that it would hardly be consistent if the Government were to sign another Agreement dealing with the same matter. If the Council Deputies felt for some reason that it was appropriate or necessary that Iceland should also sign the London draft Agreement on the Status of Forces, some convincing arguments would have to be submitted to the Icelandic Government. He was ready to bring such arguments to the notice of his Government if his colleagues supplied them.

28. The French Deputy inquired whether, if the Icelandic Government signed the London Agreement, they would reserve the right, in the case of other Contracting Parties, to choose between the extension

⁵ The text of this Agreement was distributed to the Working Group in MS-D (51) 31 (25 May 1951).

of the arrangements entered into with the United States Government and the application of the London Agreement.

29. Mr. Evans stated that two parties to a multilateral agreement were free to conclude a bilateral agreement, on condition that the latter did not prejudice the interest of third parties.

30. The Chairman said that in the course of the meeting a number of points had been raised by the Deputies which appeared to call for further discussion by the Working Group before the question came before the Deputies again. He therefore proposed that the Working Group should be requested to reconsider the comments made in the course of the present meeting. Any observations which the Canadian Deputy might receive from his Government would have to be reserved for later consideration, since the Canadian Government had not yet completed their examination of the Agreement. Subject to this reservation, however, the Working Group should confine itself to discussing the comments made in the course of the present meeting, and no new points should be raised by the members of the Working Group. The Working Group might also examine the question of the provisional implementation of the Agreement and the various points regarding the form which had not been raised at the previous session.

31. The Council Deputies:

- (1) Agreed that the points raised by the Deputies should be referred to the Working Group for consideration, on the understanding that the Working Group was not authorized to deal with any new points, and that the Working Group should be requested to draw up a final text.
- (2) Agreed that the discussion should be resumed, with the object of giving the document a final reading, when the Working Group had prepared a new text.

* * * * *

MS-R(51) 19

Summary Record of a Meeting of the Working Group on Status, 29 May 1951

*I. Consideration of the Draft Agreement on the Status of Forces.*¹

1. The Working Group reconsidered the draft Agreement regarding the Status of Forces, in the light of the observations made by the Deputies at their meeting of Thursday, 24 May 1951.²

¹ Reference: D-D(51) 127 (7 May 1951).

² D-R(51) 41, par. 1-31 (24 May 1951).

ARTICLE I, par. 1(a)

2. The United States Deputy had requested that the word “individuals” be added, with a view to excluding from this Article certain military personnel, such as military attachés or members of the United States Military Advisory Groups in Europe. The Working Group adopted this amendment. It was clearly understood that there was no objection to such individuals continuing to enjoy their present privileges. It was also made clear that the word “forces” was always used in the text of the Agreement in its collective sense and that such individuals were accordingly not regarded as constituting a force.

ARTICLE VIII, par. 9

3. The words “and their dependents” were added to the first clause of the paragraph.

ARTICLE VIII, par. 1(i)

4. The phrase “provided that such damage was caused by such member or employee” was deleted as unnecessary.

ARTICLE VIII, par. 2(b)

5. It was agreed that two months would be the time allowed for the selection of an arbitrator.

ARTICLE VIII, par. 5(b)

6. The Italian Deputy had requested that the wording be so amended as not to lay an absolute obligation upon the receiving State to pay the amount of the damages. The Chairman pointed out that two different questions were at issue. The first was whether it could be left to the discretion of the receiving State to decide whether or not it would pay for its damage. The second was whether or not it should be given a time-limit within which to make such payment.

7. With respect to the first point, the members of the Working Group agreed almost unanimously that to remove the obligation of the sending State to pay for the damage would be to destroy entirely the balance of paragraph 5 of Article VIII, which would thereby become meaningless. With respect to the second point, it was considered that the present wording set no time-limit for the payment and that any addition would accordingly have the probable result of making the text less, rather than more, flexible.

8. The Working Group came to the conclusion that it would be advisable to retain the text in its present form. The Italian Representative said he would refer the matter back to his Government.

ARTICLE VIII, par. 5(c)

9. The French Representative proposed an amended wording for this Article which would not affect the substance, but would merely clarify the form. The Working Group accepted this amendment. It was understood that the word "settlement" covered all methods of settlement, including arbitration. It was also understood that the word "tribunal" was a general term covering any authority performing a judicial function in this particular case.

ARTICLE VIII, par. 5(f)

10. The Luxembourg Deputy had requested that this Article be so amended as to be, first, restricted to quite exceptional cases, and secondly, extended to cover not only subparagraphs (b) and (c) of paragraph 5, but the whole of Article VIII. The intention was not to question the validity of the Agreement, but merely to provide for the possibility of some other procedure in cases where the settlement of any claim would cause a Contracting Party serious hardship.

11. The United States Representative said that his Government had already had difficulty in agreeing to the exception provided in the present wording and that he doubted whether it would be possible to extend this exception.

12. After some discussion by the Working Group, the Luxembourg Representative withdrew his amendment.

ARTICLE VIII, par. 5(h)

13. The United States Representative recalled that the first clause of this subparagraph was to have been deleted. He would be glad to know the reason why the wording in question had been finally retained.

14. The Chairman explained that paragraph 2 of Article VIII applied to cases, among others, of damage arising out of the use of a ship or the loading or discharge of a cargo. Damage caused in such circumstances to goods which were the property of a Contracting Party was covered by this paragraph. Damage caused in the same circumstances to the property of third parties, other than the Contracting Parties, were not covered by paragraph 5. The provisions of paragraph 5(e), relating to the distribution among the Contract-

ing Parties of the amount of damages, applied to the claims covered by paragraph 2 as well as to the claims covered by paragraph 5. It was therefore necessary to provide that the cost of damages arising out of the use of ships or the loading [or] discharge of cargoes covered by paragraph 2, should be distributed in accordance with paragraph 5(b).

ARTICLE VIII, par. 7

15. The French Representative had pointed out that, in cases of the unauthorized use of vehicles, the responsibility of the sending State might be involved; for example, if a car park were inadequately guarded. It would therefore be advisable to amend the Article by providing that it was applicable, except in cases where the damage fell within the scope of paragraph 5. After some discussion, the Working Group recognized the correctness of this point of view, but adopted a different wording, which consisted in adding to paragraph 7 the following phrase: "except in so far as the force is legally responsible."

ARTICLE VIII

16. The Chairman recalled the statement made by the Netherlands Deputy to the effect that the Netherlands Government might alter their national law if they considered it necessary to do so in order to make it possible to bring foreign Governments before a Netherlands court. He said that, from the point of view of the United Kingdom Government, the national law could only be altered insofar as it was not contrary to the general principles of international law. Consequently, if the Netherlands Government were to alter their national law, the United Kingdom Government would reserve the right to raise objections. The United States Representative associated himself with this statement.

ARTICLE IX, par. 7

17. The Netherlands Representative recalled the statement made by the Netherlands Deputy on this subject. In wartime it might be physically impossible to replace the goods or services furnished to a force. These circumstances might have undesirable economic and financial consequences. It was no doubt true that the receiving State still possessed credits in foreign currencies, but there might be some uncertainty that such credit balances could be realized. While quite prepared in peacetime to regard the settlements provided in Article IX, paragraph 7, and Article VIII, paragraph 5(e) (iv), as final, the Netherlands Government felt that such settlements should only be considered as provisional in time of war and that it should be possible to make them the subject of bilateral agreements. He therefore pro-

posed that some form of appropriate wording should be found to take the following statement into account:

"The other Contracting Parties wish to state that, on the termination of hostilities, any receiving State shall have the right to re-examine the financial consequences of the present Agreement by means of bilateral negotiations, particularly if it were proved that it had not been possible to make a satisfactory settlement of claims under the terms of Article VIII, paragraph 5(e) (iv), and Article IX, paragraph 7, with respect to the real value of goods and services furnished by the receiving State."

18. The Chairman pointed out that, in any case, Article XV, paragraph 2, made it possible for any State to denounce the Agreement in the event of hostilities. This meant that the receiving State would be free to enter into new negotiations, with a view to arriving at another method of settling the questions which were a matter of concern to the Netherlands Delegation, but all that could be expected of any Government at present was that they should undertake to consider the possibility of such negotiations. It was out of the question to ask them in advance to commit themselves to altering the method of settling claims.

19. The Netherlands Representative said that his Government had no intention of denouncing the Agreement, but merely wished to provide for the possibility of adopting a different method of settlement if necessary in wartime.

20. The United States Representative suggested that the difficulty might perhaps be solved by adopting the present text and also a Netherlands statement to be inserted into the Summary Record.

MS-R(51) 20

Summary Record of a Meeting of the Working Group on Status, 30 May 1951

I. Consideration of Draft Agreement.¹

1. The Italian Representative stated that his Government withdrew the proposed amendment to Article VIII, paragraph 5.

ARTICLE VIII, par. 5(h)

2. In reply to a question put by the United States Representative, the Chairman explained that it was clear that paragraph 4 applied to

¹ Reference: D-D(51) 127 (7 May 1951).

claims of Contracting Parties and paragraph 5 to claims of individuals. The last clause of paragraph 5(h), which read as follows: "other than claims for death or personal injury to which paragraph 4 of this Article does not supply," was therefore not strictly necessary. It had seemed advisable however to retain this clause in order to avoid any possible ambiguity.

ARTICLE VIII, par. 1 and 2

3. The Canadian Representative said that his Government considered that the wording of paragraphs 1 and 2 was too involved and proposed a much shorter and simpler text. The majority of members of the Working Group considered that the proposed amendment would reopen the question of the whole Article, which had been established only after lengthy negotiations and represented a balance of views which had been worked out with great care. If the Canadian wording were adopted, it would have to be referred back to the Governments; this would take some considerable time, which could not be spared at the present stage of the negotiations.

4. The Canadian Representative withdrew his proposal, but reserved the right to have the question raised again by the Canadian Deputy.

ARTICLE X, par. 2

5. The Canadian Representative requested clarification of the exact meaning of this Article. The Chairman referred to the explanations which had already been given to the Working Group and the Deputies and recorded in the Chairman's reports. The example which he had given at that time was not restrictive, in any case, and the taxation in question would be imposed even if the source of income were revealed after the person liable to tax had been sent to the country from which he derived his income.

ARTICLE IX, par. 7

6. The Chairman read the draft of a passage to be inserted into the report in order to meet the wishes of the Netherlands Representative with respect to this Article. After adopting some amendments to this text, the Working Group agreed that it should be included in the report.

7. The Netherlands Representative stated that he would like this text to be regarded to a certain extent as binding. To this end, he proposed that the report should recommend that the Deputies approve this text. It was agreed that the presentation of this recom-

mentation would be left to the Chairman's discretion when he drew up the report.

II. Application of the Agreement to Iceland.

8. The Chairman recalled that Iceland had entered into a separate agreement with the United States² and that the point to be decided was whether it was necessary that Iceland should be a party to the multilateral Agreement. The Iceland-United States Agreement followed the general lines of the multilateral Agreement, but Iceland would nevertheless have some difficulty in adhering to two Agreements which differed in certain respects.

9. The Representatives of the United States and France said that, although it was not necessary, from the legal point of view, that Iceland should sign the multilateral Agreement, it would be advisable, from the political and psychological point of view, that she should sign it. The multilateral Agreement was the first outward sign of the solidarity of the NATO Powers, and it would certainly be unfortunate if one of the members did not sign this Agreement.

10. The Chairman shared this point of view. He added that there would probably be practical difficulties in the way of basing the status of forces on two different Agreements, one applying to ten countries, and the other to one country only. On a number of points, moreover, the bilateral Agreement was not always complete, for example with respect to damage caused to third parties, which was dealt with in Article VIII of the multilateral Agreement. The Chairman said that there were no juridical reasons why two parties to a multilateral Agreement should not sign a bilateral Agreement, in so far as this did not prejudice the interests of third parties.

11. The Icelandic Representative requested time to consider the question. It was understood that if he agreed with the view of the Working Group he would inform the Chairman to that effect. If he did not agree, a further meeting of the Working Group would have to be called.

III. Resolution on Provisional Implementation of the Agreement.

12. The Working Group considered the draft Resolution³ on the provisional implementation of the Agreement before ratification and adopted it with some amendments.

² MS-D(51) 31 (25 May 1951).

³ Reference: MS-D(51) 30 (25 May 1951), which has been omitted inasmuch as it is substantially the same as the text of the Resolution finally approved by the Council Deputies, D-R(51) 48, par. 5-6 (19 June 1951).

IV. Signature Formalities.

13. It was agreed that the Agreement could be signed at a meeting of the Council Deputies. It would be necessary that the Deputies should be duly furnished with full powers. The Foreign Secretary would sign for the United Kingdom.

14. The Belgian Representative pointed out that, in the case of Western Union, a protocol had been annexed to the Agreement to cover the special position of the Benelux countries. In view of the Benelux customs union, there was no reason to apply certain provisions of the Agreement in the relations among the three countries.

15. The Chairman thought that it would be preferable to study the text of the protocol first and then to decide afterwards what action might be taken, in this connection, in the case of the NATO Agreement. At first sight, he doubted whether it was necessary to draw up a special protocol, since this was a question which concerned the BENELUX countries only.

16. The Portuguese Representative recalled that his Government had made a general reservation on the Azores. It was suggested that this reservation should be added at the time of the signature of the Agreement.

V. Other Business.

17. The Chairman said that he had doubts regarding the accuracy of the statement made by the French Representative in paragraph 29 of Summary Record MS-R(51) 12, and that he would be glad to know whether the wording of this statement, as it appeared in the Summary Record, was a faithful reflection of the meaning of the French Representative. It was agreed that the Chairman would establish direct contact with the French Representative on this point.

18. The United States Representative laid stress on the importance which his Government attached to the careful screening of military personnel sent from one country to another and particularly to the United States, who might have access to secret national documents. He requested the Representatives to note that his Government would in general require screening by it of members of a force or civilian component whose duties in the United States require access to highly classified United States material.

19. The United States Representative further recalled that in time of war the United States Government considered that those provisions relating to jurisdiction over its forces, which were included in the Agreement, would no longer be adequate. In the event of hostilities, the United States Government desired to be able to exercise

exclusive jurisdiction over their forces. He realized that under Article XV the United States Government had the right to denounce the Agreement in so far as the provisions in question were concerned. He thought it would be desirable, however, that the Deputies should express their opinion on this matter.

20. It was agreed that the Chairman would undertake to draw up a new covering report to accompany the text as now established, with a view to submitting the text to the Deputies in the course of the following week.

D-R(51) 45

Summary Record of a Meeting of the Council Deputies, 6 June 1951

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*II. Draft Agreement on the Status of the Armed Forces.*¹

2. At the request of the Chairman of the Council Deputies,² Mr. Evans, Chairman of the Working Group on the draft Agreement on the Status of the Armed Forces of NATO countries, described how the Working Group after prolonged discussions had arrived at a compromise which seemed to be acceptable to all parties.³

3. The Chairman thanked Mr. Evans and the Working Group for having brought this complex and difficult task to a successful conclusion.

4. The Netherlands Deputy recalled the information he had given⁴ on the views of the Netherlands Government with regard to Article IX, par. 7. The Working Group had gone into the question and had prepared a statement on this subject which had been included in the covering report to the Deputies.⁵ He requested the Deputies to confirm this statement of the Working Group. He also recalled the statement which his representative had made in the Working Group on original paragraph 8 of Article VIII, and which he himself had repeated before the Deputies.⁶

5. The Canadian Deputy stated that the Canadian Government was willing to accept and sign the draft NATO Forces Agreement.

¹ Previous reference: D-R(51) 41, par. 1-31 (24 May 1951).

² United States Deputy.

³ The draft here under consideration is that contained in D-D(51) 138 (1 June 1951).

⁴ D-R(51) 41, par. 10 (24 May 1951).

⁵ D-D(51) 146 (5 June 1951).

⁶ D-R(51) 41, par. 9 (24 May 1951).

However, this statement of intention was qualified in one respect. There were at present United States forces at certain leased bases in Newfoundland whose status was regulated by the Leased Bases Agreement of 1941, made between the United Kingdom and the United States before Newfoundland became a part of Canada.⁷ Many of the problems dealt with in the draft NATO Forces Agreement were at present covered in the Leased Bases Agreement. The Canadian Government was initiating discussions with the United States Government with a view to determining how and to what extent the NATO Forces Agreement could apply to United States forces at the leased bases. Until these discussions had been concluded, it was not possible for the Canadian Government to say that no reservation would be attached to Canada's signature of the NATO Forces Agreement.⁸

6. The Belgian Deputy said that his Government was willing to accept the draft submitted to the Deputies. At the time of the signature of the Agreement, his Government, together with the Governments of Luxembourg and the Netherlands, would make a declaration regarding the extent to which the Agreement would apply in relations among the three BENELUX Powers. This declaration would not be a reservation, but merely a unilateral statement which would in no way affect the validity of the assent of the Governments of the three Powers concerned. This declaration was reproduced as Annex B to D-D(51) 146.⁹

7. The Chairman also recalled a number of statements made by his representative in the Working Group. The first concerned the status of United States military attachés and certain members of Military Advisory Groups. It was understood that they would not be subject to the Agreement and would continue to enjoy diplomatic privileges. The second statement related to the intention of the United States Government to set up a Military Post Office system. The third state-

⁷ For the Leased Bases Agreement of 1941, see 55 Stat. 1560, EAS 235; for later modifications: 1 UST 585, TIAS 2105 and 3 UST 2644, TIAS 2431.

⁸ Canada made no reservation to the Status of Forces Agreement. The discussions between Canada and the United States, referred to above, resulted in the Agreement Between the United States and Canada on the Application of the NATO Status of Forces Agreement to United States Forces at Leased Bases, entered into in April 1952: 5 UST 2139, TIAS 3074, 235 UNTS 269. This Agreement entered into force on 27 September 1953, when the NATO Status of Forces Agreement became effective between Canada and the United States.

⁹ Annex B of D-D(51) 146 (5 June 1951) has been omitted, since the text of the draft BENELUX Declaration therein is identical with that found in D-R (51) 48, par. 4 (19 June 1951).

ment was connected with a provision which had been originally included in Article VI and had been deleted from the present text; it dealt with the jurisdiction of the sending State over its forces in the event of hostilities. The United States Government would find it necessary to exercise exclusive jurisdiction over their forces in the event of hostilities, and understood that under the terms of Article XV review and revision of the Agreement are possible. He made it clear that the United States Government would invoke this provision and simultaneously give notice of the suspension of Article VII. He also reminded the Deputies of a statement made by his representative to the effect that his Government would probably find it necessary to adopt a security procedure to apply to personnel of a receiving State who might have to handle classified United States information.

8. The United Kingdom Deputy said that he had taken note of the claim of the United States Government to obtain exclusive jurisdiction over their forces in the event of the outbreak of war. During the last war, the United Kingdom Parliament had conferred on the United States authorities special jurisdiction over members of their armed forces in the United Kingdom. The United Kingdom Government was not in a position, however, to give any pledge as to the action which Parliament would take in the event of another war. With respect to the establishment of a Military Post Office system, he pointed out that this was a matter which should be the subject of bilateral agreement between the countries concerned.

9. The French Deputy said that he was willing to sign the Agreement. He also stressed the point that the agreement concerning the establishment of a Military Post Office system should be negotiated on a bilateral basis and should conform to the regulations of the Universal Postal Union.

10. With respect to formalities, the Chairman said that the United Kingdom Government had offered to undertake the printing of the Agreement. The Deputies should notify the Secretariat when they had obtained their full powers. A possible date for the signature might be 19 June 1951. The Chairman would request the Information Service to prepare a press communique on the subject.

11. The Council Deputies:

- (1) approved the draft Agreement on the Status of the Armed Forces.
- (2) confirmed the statement reproduced in the covering report, regarding Article IX, paragraph 7.

MS-R(51) 21

Summary Record of a Meeting of the Working Group on Status, 7 June 1951

*I. Draft Agreement on the Status of NATO Civilian Staff.*¹

1. The Chairman said that his Government was now willing to accept the draft Agreement on the status of NATO civilian staff, subject to a number of amendments on points of detail, and to a declaration which it would make at the appropriate time on the precautions which the United Kingdom Government intended to take regarding the application of Article 5 of the Agreement, in particular. He proposed that the Working Group should consider the text, article by article.

PREAMBLE

2. The word "officials" in the Preamble was replaced by the words "international staff."

ARTICLE 1, par. (c)

3. The French Representative thought it desirable to give a list of subsidiary bodies, to make it clear which of them were covered by the Agreement. It would also be advisable to define the status of the Standing Group, which had not yet been determined. It would therefore be better to include the Standing Group in this list for the time being, to ensure that its status was made quite clear. This would neither prevent consideration of the question of status at a later date nor a decision, if it were thought fit, to give the Group a different status.

4. The United States Representative said that the point should be settled in connection with Article 2, which excluded from the scope of the Agreement those military bodies which were the subject of a separate status Agreement. He would prefer a wording to the effect that the Agreement would not apply to the other military bodies.

5. The Working Group agreed that the Summary Record of the present meeting would list the subsidiary bodies of the Treaty on the understanding that, if other bodies were set up at a later date, the list would have to be completed. The Secretariat was requested to prepare and circulate this list.² As for the problem of military bodies,

¹ Reference: MS-D(51) 29 (5 May 1951).

² The list of subsidiary bodies referred to was not included in the present Summary Record. It was, however, subsequently issued as MS-D(51) 33 (8 June 1951) and, with some minor textual alterations, as an Annex to MS-R(51) 24 (14 June 1951). The text of MS-D(51) 33 has therefore been omitted.

it seemed necessary, from a general point of view, to provide that they would be subject to some form of status agreement. For the time being it was somewhat difficult to decide exactly which military bodies were concerned, and whether they included the Military Representative Committee and the Military Standardization Agency in particular. The text before them therefore had the advantage of flexibility, since it made it possible to exclude from the Agreement any body which would be the subject of a separate status agreement. This was a simple criterion, whereas it would be a much more complicated matter to try to discover a criterion which would make it possible to decide whether or not the body in question was a military one.

6. The Working Group finally agreed to amend Article 1(c) by replacing the last clause by the words "unless the Council decides otherwise"; that is, it was agreed that it was for the Council to define the status of the military bodies as well as that of the various agencies which might be set up at a later date.

7. It was made clear that, when a member of the military personnel subject to the agreement on the status of the armed forces was temporarily attached to [a] NATO national delegation or to the NAT Organization itself, he could, for the period of his posting, enjoy the privileges conferred by the Agreement on the status of civilian staff. He would thus be able to choose among those provisions which offered him the greatest advantages. This applied, of course, to temporary assignments only, and it was not for a moment suggested that a member of the military personnel permanently attached to a NATO agency could be subject to any status agreement other than that applying to NATO civilian staff. Civilians attached to military bodies would in the same way be subject, as civilian components, to the Agreement on the status of the armed forces.

ARTICLE 3

8. At the request of the United States Representative, a number of drafting amendments were made to Article 3 to clarify the meaning of the Article.

ARTICLE 4

9. The French Representative raised no objections to this Article, which reproduced the text of the corresponding Article in the OEEC Agreement. He pointed out, however, that the acquisition of immovable property should be restricted to property which was strictly necessary for the operation of the Organization. Moreover, amendments were at present under consideration to similar articles in the Conventions governing other international organizations. Should

these amendments be adopted, it would be necessary to include them in the Agreement on the NATO status.

10. The Chairman said that the United Kingdom Government also imposed restrictions on the acquisition of immovable property, for which a permit was required.

ARTICLE 6

11. The Portuguese Representative requested that this Article be amended with a view to conferring on the immovable property of the Organization exactly the same privileges as those granted to embassies and the national delegations. The Working Group considered that this amendment would have the effect of restricting, rather than increasing, the privileges of the Organization, and it was agreed that the present wording be retained, which was the same as that adopted for other international organizations.

12. The French Representative said that it was important to define exactly what was meant by the premises of the Organization; the office accommodation of officials was not covered by this Article. It would also be advisable to provide in Part V for the inviolability of the premises of national delegations, which might very well not be physically located in the embassies.

ARTICLE 8

13. Mr. Bradford³ pointed out that the transfers to which this Article referred were either transfers of the contributions made by member States, or transfers of the salaries of members of the Organization to their country of origin.

14. The United States Representative said that it would be advisable to clarify the meaning of this Article, which he considered too vague. He therefore proposed a wording to the effect that the Organization might freely transfer and convert its property, whether in cash or at the bank, on condition that such transfers did not violate the currency regulations of the member States. If the Organization requested a transfer from one currency to another, the member State concerned should make the transfer at the most favorable official rate of exchange.

15. The Working Group thought that the first part of the United States proposal would probably result in restricting, rather than increasing, the privileges of the Organization. It also thought it proper that the transfer should be made at the most favorable official rate of exchange. To take into account the view of the United States Repre-

³ Member of the International Staff of NATO.

sentative, it was finally agreed that the words "at the most favourable rate of exchange" should be added at the end of paragraph 1(b).

ARTICLE 9, par. (a)

16. The Chairman pointed out that the stamp duty on cheques was not a direct tax. Nothing in this Article therefore authorized exemption from stamp duty on cheques in favor of the Organization.

ARTICLE 9, par. (b)

17. Mr. Bradford asked whether it was the view of the United Kingdom Government that this Article could authorize the Organization to set up a form of cooperative store similar to those which existed in other international organizations. The Chairman replied that he could not express any opinion on this point for the time being and said that he would refer the question to his authorities.

ARTICLE 11

18. The United States Representative asked that this Article be deleted, for reasons which had already been given to the Working Group. The Chairman supported this request. The Working Group agreed that Article 11 be deleted.

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MS-R(51) 22

Summary Record of a Meeting of the Working Group on Status, 8 June 1951

*I. Draft Agreement on the Status of NATO Civilian Staff.*¹

ARTICLE 5

1. The Italian Representative suggested that the text should state that the scope of the privileges conferred on the Organization would not be wider than that of the privileges granted within one State to another State.

2. The Working Group approved this view but agreed that the text of the Agreement should not be amended and that this statement should simply be included in the Summary Record.

¹ Reference: MS-D(51) 29 (5 May 1951).

ARTICLE 13

3. The Chairman said that the United Kingdom Government had been very reluctant to accept the wide range of privileges appearing in this Part. It was prepared, however, to give its agreement in principle, subject to certain minor changes. In view of the great difficulties which would be experienced in obtaining Parliamentary approval for the Agreement if new changes were made in the text, Mr. Evans urged that the wording of this Part should be retained as it stood. He particularly stressed the point that Article 13 was based on the corresponding Article of the Agreement entered into with the United States in the case of the United Nations Organization.² The Article should therefore prove satisfactory to the various delegations.

4. He also desired to make the following four statements. The United Kingdom Government:

- (i) would always press for waiver of immunity in criminal cases;
- (ii) would insist that the arrangement under which members of the diplomatic corps take out third-party motor insurance policies should be extended to NATO representatives and officials;
- (iii) would only grant inviolability of his private house to the principal permanent representative of each country and not to his staff or to temporary representatives;
- (iv) would wish to exercise an effective discretion as to the number of the staff of a representative who would enjoy the wider immunities.

5. The United States Representative said that his Government would have preferred the provisions of the OEEC Convention.³ In the absence of such provisions, he requested that the categories of representatives to whom the privileges applied be specified in the Summary Record. In his opinion, privileges should be accorded as follows:

- (a) The provisions of Article 13 would apply to the permanent staff of the national delegations to the Council Deputies and to the subsidiary bodies defined in Article 1(c), down to and including the grade of third secretary.
- (b) Article 14 would apply to the staff of all temporary national

² Agreement Regarding the Headquarters of the United Nations, signed at Lake Success, 26 June 1947. 61 Stat. 3416, TIAS 1676, 11 UNTS 11.

³ Supplementary Protocol No. 1 to the Convention for European Economic Cooperation on the Legal Capacity, Privileges and Immunities of the Organization, signed in Paris on 16 April 1948. Treaty Series, No. 59 (1949), Cmd. 7796, 43 Am. J. Int. L. Supp. 94, at 102 (1949).

delegations, down to and including the grade of third secretary.

- (c) Article 15 would apply to the staff of all national delegations other than those covered by Articles 13 and 14.
- (d) The privileges referred to in Article 19, relating to the international staff, should apply to all members of the staff, down to, and including, clerical and custodial staff.

6. The Chairman proposed that (d) should be dealt with when Article 19 was under discussion. He accepted (a), (b) and (c), subject to the declaration just made by himself on behalf of his Government and to the fact that Article 15 applied only to official secretarial staff. Apart from this, the Working Group agreed with the United States interpretation. It was also pointed out that, as the grade of third secretary was unknown in certain countries, and, moreover, as it was not always possible to establish exact comparisons between the grades in internal Government services and the grades of the Diplomatic Service, the privileges in question should be regarded as applying down to the grade of third secretary or its equivalent.

7. The French Representative expressed his appreciation of the way in which the United Kingdom Delegation had drawn closer to the point of view of the other delegations. As far as he was concerned, he agreed with the interpretation of the grades to which the privileges applied. He also approved the grades mentioned in the Chairman's statements. He wished to point out, however, that the wording of Article 13 was unsatisfactory in its present form. It conferred an undefined status on an undefined number of individuals. It did not take into account the fact that NATO agencies were located in different countries and that the national delegations were accordingly also located in several countries. The term "principal permanent representative" was too vague. It gave the impression that there were as many principal permanent representatives as there were countries in which the Organization was represented. Lastly, there was some ambiguity about the juridical definition of the status. The text gave the impression that the parties concerned were two States, a member State on one hand and the host Government on the other; whereas in fact it was a case of delegations attached to an Organization and not to a member State. In these circumstances, the Organization, and not the host Government, was alone able to decide what provisions to lay down for national delegations. In this connection, the French Representative submitted the following redraft of Article 13 [and Article 14], which reflected the comments which he had been instructed to make:

“ARTICLE 13

“Each member State shall maintain a permanent delegation to the Organization which shall constitute a diplomatic mission, the Head of which shall be the Deputy designated by the Government of that State.

“This delegation shall include only those members of the civilian and military staff who are permanently designated as representatives of the Government concerned to the Council or the permanent subsidiary bodies. Its members shall enjoy the immunities and privileges normally accorded to diplomatic representatives of comparable rank.

“Member States shall restrict the numbers of this delegation to the absolute minimum, within the limits of a general framework determined by the Council Deputies.

“ARTICLE 14

“Any representative of a Member State to the Council or any of its subsidiary bodies, who is not a member of the delegation referred to in Article 13, shall, while present in the territory of another Member State for the discharge of his duties, enjoy the following privileges and immunities: . . .”

8. The Chairman pointed out that completely new principles were now being put forward, quite different from those adopted for UNO and the OEEC and those which had served as a basis in preparing the NATO draft Agreement. The French text no longer contemplated granting privileges to a certain number of individuals, but proposed to give them to each national delegation as an entity similar to a diplomatic mission, accredited in this case to an international organization. In view of the fact that NATO agencies were established in several countries, it was difficult to see how the Head of the Mission in London could be responsible for that part of his delegation which was posted to another country. The United Kingdom Government felt that it had made the greatest number of concessions on this point, and he did not think he could submit a wording to his Government which would certainly be found unacceptable.

9. The French Representative pointed out that it was not his intention to introduce a new conception of international law, but merely to specify to whom exactly the system of privileges should apply. In any case, national delegations were not accredited to the host Government, but were delegations to the international Organization, and this was true both for UNO and for NATO. There were thus two kinds of juridical relationship: the first, between the mem-

ber State and the Organization; the second, between the Organization and the host Government. The present wording telescoped the two into one, and the main object of the French proposal was to reflect the true position. He also pointed out that, in the case of UNO, the Convention on privileges was concluded with the Secretary General and the host Government, and not exclusively with the host Government.

10. The Chairman explained that it was not the intention of the United Kingdom Government to impose arbitrary restrictions on the numbers of the staff of national delegations, but merely to retain the right of control over the number of those members of national delegations who would enjoy diplomatic privileges. He suggested that the present discussion was somewhat academic and that it might therefore be enough to include the comments of the French Representative in the Summary Record.

11. The French Representative said that of course he entirely agreed that it was desirable to deal with as many points as possible by reference to the Summary Record. Many of the questions he had raised could certainly be settled in this way, but the real difficulty was a juridical one: that of the relationship between the member States, the Organization, and the host Government; and this difficulty could only be solved in the Agreement itself.

12. While appreciating that the United Kingdom should feel concerned about certain points, the Italian Representative said he agreed with the French Representative.

13. The Canadian Representative remarked that, while he understood the French point of view, he feared that the proposal of the French Government would encounter difficulties in practice. There were branches of the Organization in at least three countries, and the Head of a Mission would certainly have difficulty in exercising full control under these conditions. In this connection, the Working Group made it clear that there might be a principal permanent representative in each country in which there was an agency of the Organization. These principal representatives, however, only enjoyed those privileges which were accorded to diplomatic representatives of comparable rank. Their principal representative to the Council Deputies enjoyed the special privileges which were accorded to the Head of a diplomatic mission.

14. The Italian Representative submitted a compromise proposal, worded as follows:

“ARTICLE 13

“Every person designated by a Member State as its principal permanent representative to the Organization in the territory of

another Member State, and the resident members of his official civilian or military staff, shall enjoy the immunities and privileges normally accorded to diplomatic representatives and their official staff, insofar as such staff have the same rank as the official staff of the Diplomatic Mission of the same State to the receiving State, and insofar as the numbers of such staff do not exceed the number laid down by the Council Deputies in agreement with the State in which the Organization has its Headquarters. Any increase in the numbers of such staff may be the subject of an Agreement between the latter State and the State employing the staff in question."

15. The Belgian Representative also submitted a compromise proposal.

16. The Chairman suggested that the main objection of the French Representative might be overcome by inserting into the text of Article 13 the words, "and the Organization," after the words, "between these States."

17. The French Representative said that, in any event, his instructions did not authorize him to accept Article 13 for the time being. He must therefore formally request that this Article be reserved for consideration at a later stage. He would discuss the question with his Government in the light of the outcome of the present meeting, and the question might be taken up again at the second reading of the draft Agreement.

ARTICLE 14, par. 1(h)

18. The words "to their future country of residence" were deleted from paragraph 1(h). It was agreed that it was not for the host Government to exercise control over the destination of exported furniture and effects. It was also agreed that the last clause which read "subject in either case to such conditions as the Government of the country in which the right is being exercised may deem necessary," meant that the Government's particular intention was to ensure that goods should not be sold and that there should not be importation in abnormally large quantities.

ARTICLE 14, par. 1(i)

19. The wording was amended to take into account the fact that the provisions of this passage had already been partially covered by Article 14, par. 1(g).

20. Throughout the Article, the words "diplomatic representatives" were replaced by "diplomatic staff."

ARTICLE 14, par. 2

21. The Belgian Representative requested that this Article be replaced by the following wording, which was based on the corresponding passage of the Agreement on the Status of the Armed Forces:

“Where the incidence of any form of taxation depends upon residence or domicile, periods during which the representative of a Member State is in the territory of another Member State by reason solely of his being a representative shall not be considered as periods of residence therein, or as creating a change of residence or domicile, for the purposes of such taxation. The representative shall be exempt from taxation in the other Member State on the salary and emoluments paid to him as a representative by the State of which he is a national or on any tangible movable property the presence of which in the aforementioned State is due solely to his temporary presence there.”

A similar paragraph should appear in Article 19, which dealt with officials of the Organization.

22. The Belgian Representative considered it unjustifiable from the fiscal point of view to establish different texts for the members of the armed forces and the representatives of the armed forces and the representatives of the various member States to the Organization.

23. After discussion, the Working Group came to the conclusion that, if this amendment were adopted, it would be necessary to insert the complete text of Article X of the Agreement on the Status of the Armed Forces in the present Agreement. An alteration of this kind would be undesirable at the present stage of the negotiations. The Working Group therefore agreed to retain the present wording.

24. The Chairman explained that, where tangible movable property was concerned, this Article was intended to ensure that, if such property was located in the territory of the host Government solely because the representative had been sent to the territory of that Government for the discharge of his duties, his property would be covered by the same forms of immunity from taxation as those accorded to diplomatic staff of comparable rank.

ARTICLE 15

25. In reply to a question by the Norwegian Representative, the Chairman explained that the privileges and immunities of typists would be set out in Article 15. As regards the domestic staff of representatives, they would not be entitled to any privileges properly so-called but would, he expected, enjoy the courtesies which are

accorded to comparable members of the staff of a diplomatic representative.

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MS-R(51) 23

Summary Record of a Meeting of the Working Group on Status, 8 June 1951

I. Draft Agreement on the Status of NATO Civilian Staff.¹

1. The Working Group continued their discussion of the draft Agreement on the Status of NATO, National Representatives and International Staff.

PART IV

2. It was agreed to reword the heading to read: "International Staff."

ARTICLE 18

3. The United States Representative asked whether it was understood that the officials referred to in Article 18 and granted certain immunities and exemptions in Article 19 included all members of the Secretariat from the Executive Secretary down to drivers, messengers, etc. The United States view was that the two Articles should cover all grades of staff.

4. The Chairman replied that the United Kingdom Government was ready to follow the practice of other international organizations in this connection, and asked the Secretariat to find out what was common practice. Presumably certain staff paid by the hour—office cleaners, for example—would in any case not be included.

5. There seemed a general consensus of opinion in the Group that the practice in other international organizations, particularly the United Nations and OEEC, should be followed.

6. In reply to a point raised by the Belgian Representative to the effect that "fonctionnaires" in French did not correspond exactly to "officials" in English, the Chairman suggested that the French-speaking members of the Group should form an unofficial drafting committee to verify the accuracy of the French text.

¹ Reference: MS-D(51) 29 (5 May 1951).

ARTICLE 19(b)

7. The United States Representative said that his Government could not accept either alternative suggested in Article 19(b), and he therefore proposed the following wording:

be exempt from taxation on the salaries and emoluments paid to them in their capacity as such officials, except that each Member State shall treat, for tax purposes, the salaries and emoluments of such officials who are its nationals in accordance with such Member State's own international laws.

His Government felt strongly on this point.

8. The Chairman pointed out that the whole problem of exemption from direct taxation in the United Kingdom was complicated by the fact that, when discretion was left in an international Agreement to tax or not to tax salaries, his Government was obliged to tax in virtue of an undertaking given by it when the relevant Act was passed. Only when an Agreement specifically laid down that salaries were to be free of tax, could exemption be given by the United Kingdom to its nationals.

9. Mr. Bradford,² in reply to a question by the Representative of Norway, said that he thought salaries would represent approximately two-thirds of the budget and that it could be assumed that taxation would, roughly speaking, take at least 25% of salaries or even more.

10. The Belgian Representative pointed out that Article 19(b) provided the following alternatives:

(i) exemption from taxation on salaries and emoluments, but with discretion left to each member State to tax its nationals—unless a system was adopted whereby salaries and emoluments were taxed by the Organization itself.

(ii) the granting of exemptions similar to those enjoyed by officials of the other principal international organizations.

11. With regard to the second alternative, the Belgian Government could only reaffirm its opposition in principle to any extension to new categories of officials of the immunities accorded to the officials of other international organizations such as UNO, OEEC, etc. It was no doubt desirable to exempt the officials of similar organizations from taxes in that country in which for a variety of reasons the headquarters of the above organizations had been set up, but this should not mean that such officials should escape paying any taxes in respect of the remuneration paid to them by an international organization. For this reason the Belgian Government objected to the inclusion of the last of the alternative provisions of Article 19(b),

² Member of the International Staff of NATO.

which in any case reproduced the provisions of Article 14 of Supplementary Protocol No. 1 of the OEEC Convention.

12. With respect to the first alternative, the Belgian Government, in accordance with the resolutions of the meeting held in Paris by the fiscal experts of the Brussels Treaty countries, could agree to taxation by the Organization itself for its own benefit, on condition that genuine deductions were made as under any system of taxation. In this case, the Agreement should respect the right of each member State to levy its own taxes on salaries and emoluments paid by the Organization, in accordance with its own fiscal legislation, provided the hardship of double taxation were overcome by granting a credit or rebate.

13. If, however, the Working Group adopted the principle of exemption, it would be desirable to include in the Article dealing with exemption a provision to the effect that each State was free to tax the officials who were its nationals for fiscal purposes, at the time of their appointments to the staff of the Organization. In this connection, it should be noted that the English translation "nationals" of the French term "nationaux" did not adequately cover the various criteria of liability for taxation adopted by the legislative systems of the countries concerned. In Belgium, for example, liability to pay income tax depended on whether the person concerned was an inhabitant of the Kingdom, owned a residence there and drew an income from sources therein, whatever his nationality might be.

14. The Italian Representative said that the view of the Italian Government was similar to that just expressed by the Belgian Representative.

15. A discussion followed as to which of the two alternatives in Article 19(b) was preferred by the members of the Group, and the following positions were taken:

- (a) The Belgian and Italian Representatives said that they could accept alternative (1), but not alternative (2).
- (b) The Danish, French and Norwegian Representatives said that they preferred alternative (1), but thought that their Governments could accept alternative (2).
- (c) The Canadian Representative said that he preferred alternative (2), but could accept alternative (1).
- (d) The United States Representative said that his Government felt strongly that it must maintain its right to tax all its nationals, and could therefore accept neither alternative. He was sure his Government could not accept alternative (2), but he might have a better chance of persuading it to accept alternative (1), if the last clause "unless the Member States

agree on a system whereby the salaries and emoluments concerned are taxed by the Organisation itself" were deleted.

16. Mr. Bradford suggested that the words "by the Organisation" should be added after the words "paid to them" in alternative (1). It was agreed that these words should be included.

17. The Danish and Canadian Representatives said that, from the point of view of the smooth working of an international staff, it was desirable that all officials of the same grade should receive the same net salary, which would not be possible if Governments taxed their nationals on the staff at varying rates.

18. Summing up the discussion, the Chairman pointed out that there was a majority in favor of alternative (1) and that, while the Canadian Representative preferred alternative (2), the only member of the Group who could not accept alternative (1) was the United States Representative. He suggested that alternative (1) be retained, including the "unless" clause which should for the time being be put in square brackets; that alternative (2) be deleted; and that the article be reconsidered at the next meeting.

19. The Belgian Representative then suggested that the inclusion of an article in this part of the Agreement on the lines of Article 17, which left discretion to each State in the matter of immunities to be granted to its nationals, might make it possible to dispense with the proviso in Article 19(b), since the new article would give an option to governments in the matter of tax exemptions for its nationals.

20. In conformity with this suggestion, the Group agreed to re-word Article 19(b) as follows: "be exempt from taxation on the salaries and emoluments paid to them by the Organisation in their capacity as such officials."

21. The Secretariat was asked to look into the implication of this amendment and to report to the Group on its possible effects on the salaries of the international staff.

ARTICLE 19(c)

22. Article 19(c) was deleted.

ARTICLE 19(e)

23. Article 19(e) was re-worded to read as follows: "be accorded the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic personnel of comparable rank."

ARTICLE 19(f)

24. A similar drafting modification was made to this provision.

ARTICLE 19(g)

25. The words "to their future country of residence." were deleted.

26. The Belgian Representative asked whether it was not desirable to add a subparagraph on the lines of Article 14 (paragraph 2), which dealt with the incidence of taxation in relation to residence.

27. The Chairman replied that no such clause was included in other international Agreements of a similar kind, and that he did not think the Group could consider adding it.

ARTICLE 20

28. After discussion as to whether the Chairman of the FEB should be specifically included among the persons referred to in this Article, the Group agreed, on the proposal of the Chairman, to defer its decision until the exact status of that official was known.

29. The Belgian Representative said that the purpose of Article 20 was to accord immunities similar to diplomatic immunities to the Chief of the International Staff of the Organization, the Coordinator of North Atlantic Defense Production, and a number of other high-ranking officials. It would be advisable to specify in the draft Agreement on the Status of NATO Civilian Staff that, in matters concerning imports and exports of goods and purchases on the domestic market, the provisions of Article 20 could not be interpreted as laying any obligation on a member State to accord the aforementioned immunities to persons who were its own nationals or nationals of a State which was one of its partners in a Customs or Economic Union.

30. The Italian Representative said his Government had similar views.

31. To meet this point, it was agreed to add the words, "in accordance with international law," at the end of the Article.

32. The Danish Representative pointed out that the immunities granted to the spouse and children of the officials in question had not been granted to Deputies.

33. It was agreed to delete the words, "in respect of himself, his spouse and children under the age of 21 years," in Article 20.

34. Certain modifications of a purely drafting nature were also made to the text of Article 20.

35. The Chairman said that he wished to make it perfectly clear that the United Kingdom Government considered that Article 20 could not be construed as giving any form of income tax exemption, except in respect of the salary and emoluments received by the official in question in his capacity as an official of the Organization.

ARTICLE 22

36. The United States Representative pointed out that the Organization might find it desirable to apply the provisions of Articles 18 and 19 to some experts, but that in general the provisions of Article 22 would apply to experts employed on a temporary basis. The Chairman agreed with this view.

37. The Italian Representative said that his Government wanted to see an obligation in the Agreement to communicate to the Government concerned the names of the experts on mission. Difficulties had been encountered by the Italian Government in the past with experts on mission from other international organizations when their names and duties had been unknown to it.

38. The Chairman suggested, and the Group agreed, that a sentence on the lines of the last sentence of Article 18 should be included at the end of Article 22 to meet this point.

ARTICLE 25

39. The last sentence of this Article was deleted.

SIGNATORY CLAUSE

40. The words "being duly authorised to that effect" were deleted.

41. The Working Group agreed on the proposal of the Chairman to leave it to the latter to prepare a single Article on the lines of Article 17, to apply to Parts IV, V and VI.

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MS-R(51) 24

Summary Record of a Meeting of the Working Group on Status, 14 June 1951

I. Discussion of Draft Agreement on NATO Civilian Personnel.¹

ARTICLES 1(c), 2

1. The United States Representative said that his Government considered that the Agreement should make it clear that military bodies, especially the Standing Group, were excluded from its provisions, unless the Council decided otherwise, since such bodies were

¹ Reference (for par. 1-16 of Summary Record: MS-D(51) 29(R) (11 June 1951). For remaining paragraphs, see note 3, *infra*.

subject to the Forces Agreement. He suggested a modification to Article 1(c) and Article 2 for this purpose.

2. Colonel de Villeplé (Western European Regional Planning Group), in answer to a question by the Chairman, said that he had no instructions on this point. His personal view was that it might be desirable to examine the case of each military body separately: some of them were essentially planning bodies, while others, the Standing Group for example, gave orders in the strategic sphere and therefore could be more properly regarded as military bodies.

3. After a brief discussion, the Chairman suggested that the United States proposal be accepted. Article 1(c) was therefore amended to read: “‘subsidiary bodies’ means any organ, committee or service established by the Council or under its authority except those to which, in accordance with Article 2, this Agreement does not apply”; and Article 2 was amended to read: “the present Agreement shall not apply to any military headquarters established in pursuance of the North Atlantic Treaty nor, unless the Council decides otherwise, to any other military body.”

4. It was agreed that the list of subsidiary NATO bodies,² circulated at the beginning of the meeting, should appear in Annex to the Summary Record with certain amendments on points of detail suggested by Colonel de Villeplé and the Chairman.

ARTICLE 1(d)

5. On the proposal of the Chairman, an additional subparagraph, 1(d), was added to Article 1 to provide for the possible absence of the Chairman of the Council Deputies. The provision was worded as follows: “‘Chairman of the Council Deputies’ includes, in his absence, the Vice Chairman acting for him.”

ARTICLE 5

6. A drafting modification proposed by the Chairman was accepted.

ARTICLE 8, par. 1(b)

7. On the Chairman’s proposal, it was agreed to add at the end of this subparagraph the words “for a sale or purchase as the case may be.”

8. The United States Representative asked that it should be made clear in the Record that the only form of exchange which a country

² MS-D(51) 33 (8 June 1951), which has been omitted since it is identical, except for minor textual changes, with the Annex to the present Summary Record.

could be called on to make under this Article was between its own currency and any other NATO currency: the United States, for example, might be called on to convert dollars into any other NATO currency and vice versa, but not to convert pounds sterling, for example, into francs. The Group agreed with this interpretation.

9. The Group also wanted it to be made clear that it was its understanding that this Article was intended only to cover normal administrative expenses, and that nothing other than that was contemplated.

NEW ARTICLE 11

10. The Italian Representative pointed out that the original Article 11 of the draft Agreement, which dealt with telecommunications, had been deleted. It was identical with the corresponding Article in the OEEC Convention, and he thought it undesirable to exclude it since there would be no certainty in that case as to the system under which NATO communications would operate.

11. The Chairman pointed out that the Article had been deleted because several Governments had objected to its inclusion. The United States Representative had proposed deletion because of difficulties which it might cause in respect of private telecommunications companies in the United States. The United Kingdom had supported deletion because the United Kingdom postal authorities considered that, as drafted, the Article might cause difficulties vis-à-vis the International Telecommunications Convention; while the Canadian Representative, at first in favor of the Article, had supported the proposal to exclude it in the light of the arguments put forward at the last meeting. He added that difficulties had in fact arisen over the OEEC Article, and the whole question of telecommunications was being re-examined both by the OEEC and UNO.

12. The Italian Representative said that he could not see why there should be any difficulty, and that NATO should be in the same position as OEEC in this connection. He foresaw serious dangers if there were no Article referring to this question in the Agreement.

13. The French Representative said that he had provisionally agreed on deletion at an earlier meeting, but, after consulting with his authorities, he agreed with the question which they had put to him: If the Article was deleted, under what system would NATO communications be operated? If there were no agreed system, the difficulties might be more serious than those which might or might not arise under the original Article 11.

14. The Chairman replied that his postal authorities had stated that in their opinion no practical inconvenience would be caused if the original Article 11 was deleted.

15. After further discussion, the Chairman proposed the retention of the original Article, subject to a minor drafting amendment and the addition of an additional sentence at the end which might meet the objection raised by certain postal authorities, including his own, to the original Article. The sentence was worded as follows: "Member States shall ensure that communications to which special treatment is accorded under this Article are not routed through the territories of any State which is not a Party to the present Agreement." He also proposed the addition of a second paragraph to the Article to meet the special position of those countries in which communications were operated by private companies. The paragraph was worded as follows: "This Article shall not bind any Member State in respect of any facilities which are not operated by the Government."

16. It was agreed to include the Article provisionally, as amended, in the Agreement, but several Representatives stated that they would have to consult their postal authorities before they could approve it finally.

ARTICLE 13³

17. The French Representative submitted a re-draft of this Article.

18. The United States Representative said that, whatever text for this Article was adopted, the United States interpretation was that the immunities and privileges referred to in it should extend to the grade of third secretary.

19. The Chairman said that he wanted it to be clearly understood that the main preoccupation of the United Kingdom Government was to retain effective control of the number of personnel to whom the Article applied.

20. The French Representative said that he accepted the United States interpretation with regard to third secretaries, but would like to see it stated in the Record that, for countries where that grade was unknown, third secretary was understood to cover attachés or persons of rank similar to third secretary. This interpretation was approved by the Group.

21. In reply to a question by the United States Representative, the Chairman said that in the United Kingdom diplomatic staff received exemption from taxation on the following four kinds of income:

- (1) their official salary and emoluments;

³ The remaining Articles referred to in this Summary Record (par. 17-49) bear the numbers of MS-D(51) 29(2R) (15 June 1951), altered to take into account the inclusion of a new Article 11. [Note in original text]. The text under consideration, however, is that contained in the corresponding numbers of MS-D(51) 29(R) (11 June 1951).

- (2) income derived from sources abroad;
- (3) property owned or occupied as their official residence (i.e., their main private residence, but not other houses they might have purchased);
- (4) in the case of heads of missions, income derived from United Kingdom Government Bonds.

The Head of a NATO delegation would receive all four forms of exemption, while the other members covered by Article 13 would receive the first three.

22. The Group decided to include in the Record the four reservations made by the Chairman in the name of the United Kingdom Government when this Article had been discussed earlier, to make it clear that they applied to the new Article. These reservations were to the effect that the United Kingdom Government:

- (i) would always press for waiver of immunity in criminal cases;
- (ii) would insist that the arrangement under which members of the Diplomatic Corps take out third party motor insurance policies should be extended to NATO representatives and officials;
- (iii) would only grant inviolability of his private house to the principal permanent representative of each country, and not to his staff or to temporary representatives;
- (iv) would wish to exercise an effective discretion as to the number of the staff of a representative who would enjoy the wider immunities.

The French and Italian Representatives made reservations similar to those of the United Kingdom, and there was general agreement in the Group that other countries could, if they so desired, adopt measures to give effect to them in their own territories.

23. There was unanimity in the Group on the following two points:

- (1) All Governments agreed on the necessity to keep delegations to the strict numerical minimum essential for effective operation, for obvious budgetary reasons.
- (2) Council Deputies would, as a matter of courtesy, be assimilated to Heads of Diplomatic missions where privileges were concerned.

24. The new Article 13 was approved, subject to a number of drafting modifications proposed by the Chairman.

ARTICLE 14, par. 1(h) and (i)

25. The United States Representative objected to the proviso in these two subparagraphs: "subject to such conditions as the Govern-

ment of the country in which the right is being exercised may deem necessary." The words gave the impression that it was possible that what was being given with one hand might be taken away by the other.

26. The Chairman replied that the proviso was primarily intended to guard against abuse and that the United Kingdom Government wanted to be able to exercise some measure of control.

27. The United States Representative withdrew his objection, provided it was placed on record that the purpose of the proviso was:

- (1) to guard against abuse;
- (2) to ensure that there should be no sale without payment of the appropriate taxes;
- (3) to ensure that articles brought into a country were not in excess of what could reasonably be used.

ARTICLE 14, par. 3

28. The Italian Representative asked whether the representatives defined in paragraph 3 were to be regarded as permanent or temporary.

29. The Chairman replied, and the Group agreed, that Article 14 applied essentially to temporary personnel.

30. The Italian Representative asked that in these circumstances there should be an obligation to communicate to the Government concerned the names and the probable length of stay of such representatives, since the Italian Government had experienced difficulty in the past when the names of experts and members of missions had been unknown to it.

31. The United States Representatives thought that this was hardly necessary and somewhat impracticable in what was essentially a friendly Organization, and one in which a very large number of experts, advisers, etc., were sent on mission.

32. After a brief discussion, the Group agreed to add a sentence to paragraph 3 to meet the Italian view, worded as follows: "Each Member State shall communicate to the other Member States concerned, if they so request, the names of its representatives to whom this Article applies and the probable duration of their stay in the territories of such other Member States."

33. The United States Representative asked that the Summary Record should state that a number of Representatives, including those of the United Kingdom and France, indicated that their Governments did not at present intend to avail themselves of this right.

34. Article 14, as amended, and subject to drafting modifications to the English text, was approved by the Working Group.

ARTICLE 18

35. The United States Representative said that his Government had been somewhat puzzled by the reference on some occasions to "international staff" and on others to "officials." First, would it not be desirable to use the same wording throughout the Agreement; and secondly, would "officials" cover all grades of staff his Government considered that it should?

36. In reply to the first point, the Chairman stated that there were certain advantages in using "international staff" as a heading and "officials" in the body of the Articles, in particular because the use of "officials" in the heading might give rise to confusion and be interpreted as including representatives of delegations as well as the members of the international staff; while the words "international staff" in the body of the Articles would be very heavy from the point of view of drafting. In reply to the second point, he said that the Group had already agreed to follow the practice adopted by UNO and the OEEC, and was waiting for information on this point from the Secretariat.

ARTICLE 19

37. The United States Representative noted that the provision relating to social insurance contributions had been deleted. Was it intended that social insurance contributions should be levied on NATO nationals other than those of the host State? If so, the provision should not have been deleted.

39.⁴ The Chairman replied that the United Kingdom Government attached great importance to the principle of universality in social security contributions in the United Kingdom. No exceptions were made even in the case of diplomatic personnel, though, in practice, no action might be taken if such personnel in fact did not pay the contributions asked of them. No exception, however, could be written into an Agreement.

40. The French Representative, in reply to a question by the United States Representative, said that the French Government did not intend to ask for social security contributions from NATO nationals employed by the FEB.

ARTICLE 20

41. The Italian Representative, in reply to a question by the United States Representative as to the purpose of the words, "in accordance with international law," at the end of the Article, said

⁴ No paragraph 38 in original text.

that the Article dealt with an immunity from jurisdiction and the words were intended to make it clear that the immunity was given to officials only in respect of acts done in the discharge of their duty, and not in respect of acts done as private individuals.

42. On the question as to whether or not the Chairman of the FEB should be specifically referred to in Article 20, the Chairman, in reply to the French Representative, pointed out that the FEB Chairman's position was similar to that of the Chairman of the Council Deputies, and that the latter was covered by Article 13 and not Article 20.

43. The French Representative said that, in the light of the Chairman's observation, he would refer the question back to his Government and raise it again at a later meeting.

ARTICLE 23

44. The Belgian Representative pointed out that Article 23 reserved the right of taxation in respect of the remuneration of officials of the Organization to the country of which the latter were nationals. He wished to point out that in a large number of countries, apart from the United States, liability to taxation on income was related, not to the concept of nationality, but to that of fiscal domicile, and that from this point of view the question of nationality was of no importance. Logically, it seemed desirable in these circumstances to widen the reservation provided in Article 23, at least so far as the exemption from taxation referred to in Article 19(b) was concerned. Would it not be desirable to add in Article 23 after the words, "person who is its national," the words, "or its resident"? This idea had already found expression so far as the civilian component was concerned in the Agreement on the Armed Forces.

45. The Chairman said that the Chairman of the Council Deputies was discussing this Article at a higher level, and thought that the Group could not usefully continue to examine it until the result of Mr. Spofford's discussion was known.

46. The French Representative agreed, and added that M. Alphan had already pointed out to the Council Deputies that the question dealt with in Article 23 was closely bound up with the question of the salary scales for the international staff and would have to be examined in connection with it.

47. The Chairman proposed:

- (1) that the point raised by the Belgian Representative be examined when Article 23 was discussed at greater length.
- (2) that an additional "exception" be added, worded as follows: "facilities in respect of currency or exchange restrictions so far as necessary for the effective exercise of his functions."

(3) that the whole Article, without the Belgian amendment, be retained in square brackets for discussion at the next meeting.

48. The Working Group approved these proposals.

ARTICLE 26

49. On the proposal of the United States Representative, the Working Group agreed to replace the second half of paragraph 2 of this Article ("Nevertheless, pending the entry into force of this Agreement . . .") by a separate resolution, as had been done in the case of the Forces Agreement.

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ANNEX

MS-R(51) 24

List of NATO Subsidiary Bodies

I. Civilian Bodies (to which the Agreement will apply).

[French designation]	[English designation]	Place
Bureau de production pour la défense	Defense Production Board	London
Bureau économique et financier	Financial and Economic Board	Paris
Comité d'études des transports océaniques	Planning Board for Ocean Shipping	Unspecified

II. Military Bodies (to which the Agreement will not apply unless the Council decides otherwise).

Comité militaire	Military Committee	Unspecified
Comité des représentants militaires	Military Representatives Committee	Washington
Groupe permanent (et annexes)*	Standing Group (and annexes)*	Washington London* Paris*
Bureau militaire de standardisation	Military Standardization Agency	London
Groupes régionaux de planning	Regional Planning Groups	London Paris Washington

The Military Standardization Agency and the Regional Planning Groups depend on the Standing Group. The Regional Planning Groups are included for the following reason:

- (a) They are still constitutionally in existence.
- (b) It is not proposed to abolish the Canada-United States Regional Planning Group.

D-R(51) 48

Summary Record of a Meeting of the Council Deputies, 19 June 1951.

I. The Signature of the Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces.¹

1. In the name of the Council Deputies, the Chairman welcomed Mr. Herbert Morrison, the United Kingdom Secretary of State for Foreign Affairs, who was attending the meeting for the purpose of

¹ Previous reference: D-R(51) 45, par. 2-11 (6 June 1951).

signing the Agreement on the Status of the NATO Forces. He added that he was sure that he was expressing the feeling of all Deputies in taking this opportunity of thanking the United Kingdom Government, as host Government, for the facilities and assistance it was offering to the Organization by acting in that capacity.

2. Mr. Morrison thanked the Chairman for his welcome. He said first of all how pleased he was to have an opportunity of meeting the Deputies personally; of being, as he thought, the first British Foreign Secretary to attend a meeting of the Council Deputies; and of saying how happy he was that the Deputies had made their home in London. It was a great pleasure to His Majesty's Government to be able to make facilities available. His Majesty's Government attached the very greatest importance to the work of the Council Deputies. The North Atlantic Treaty was the very center point of British foreign policy, and the Council Deputies were the civilian center point of the North Atlantic Treaty Organization. Since he had become Foreign Secretary, and even before, he had followed their work and deliberations with the closest attention, and today's meeting would give him an added personal interest when reading their reports in the future. It was a pleasure for him to take part in the signing of this Agreement on the Status of the Armed Forces, which was a concrete expression of their successful work and of the spirit of mutual trust and cooperation between the various NATO countries.

The status of the forces of one country in the territory of another was always a ticklish international problem and it reflected great credit on the Council Deputies and their advisers that the Agreement should have been completed so expeditiously and with such amity. It would, he was convinced, do much to smooth the way for that close military collaboration on which the security of the Atlantic community depended. The signature of the Agreement, which followed so closely upon the reorganization of the Council and the establishment of the Financial and Economic Board, was near to marking the end of the first stage of the Deputies' work—that of completing the North Atlantic Treaty machinery. Even during this formative stage the Deputies had been able to accomplish much of lasting value. He now looked forward to seeing them get to grips with some of the other fundamental and complicated problems of production and finance: how to produce most economically the weapons which their soldiers needed, and how to distribute the economic burden of defense on a fair and equal basis; for on this the success of the great common defense effort now primarily depended. He was confident that they would tackle those problems in the same spirit of determination and mutual forbearance which had enabled them so successfully to con-

clude the Agreement which they were about to sign. He wished them good luck in their future work, a work of the greatest importance to the North Atlantic community of nations. The primary purpose of the Organization at this time was to build up an adequate defense in order to preserve peace. He felt that the Organization might also lead, in the future, to an even closer and more fruitful collaboration in wider fields between the nations which formed the North Atlantic community.

3. The Agreement on the Status of NATO Forces was then signed by the Plenipotentiaries of NATO Governments.²

4. The Belgian Deputy, on signing the Agreement, said that he wished to make a declaration in the name of the Belgian, Netherlands and Luxembourg Governments. He emphasized the fact that it was in no way a reservation, but simply a declaration which seemed to be called for owing to the particularly close links which connected the three BENELUX countries in the domestic sphere. The declaration was worded as follows:

“The armed services of the Kingdom of Belgium, of the Grand Duchy of Luxembourg and of the Kingdom of the Netherlands, their civilian components and the members thereof, shall not avail themselves of the provisions of the present Agreement to claim in the territory of any of these Powers any exemption which they do not enjoy in their own territory, in the matter of duties, taxes and other charges, the unification of which has been or will be effected pursuant to the agreements relating to the establishment of the Belgium-Luxembourg-Netherlands Economic Union.”

5. The Chairman then pointed out that there was a draft resolution,³ advocating speedy implementation of the Agreement, worded as follows:

“The Council Deputies, considering that some provisions of the Agreement signed today between the Parties to the North Atlantic Treaty regarding the Status of their Forces, can be implemented by administrative action without the necessity for legislation and that such implementation would be useful in the period before the Agreement is ratified, recommended that signatory States should give effect to the Agreement provisionally, pending ratification, to the maximum extent possible.”

² For final text of the Agreement, see page 13, *supra*. The copy of the final text later distributed to the Deputies on 10 July 1951 as D-D(51) 138(F) has been omitted.

³ D-D(51) 140 (31 May 1951), omitted since it is identical with the Resolution as adopted by the Deputies at the present meeting, par. 5-6, *supra*.

6. The Council Deputies:

Adopted the Resolution.

7. The French Deputy made a declaration, which he said was not intended as a reservation, to the effect that France was the host Government of SHAPE headquarters and was at present negotiating an agreement to regulate the status of the officers attached to SHAPE. When the negotiations were completed and an Agreement drafted, the French Government proposed to submit it for final approval to the Council Deputies. He suggested that other Governments who might also act as hosts in similar circumstances should follow the same procedure.

8. The Chairman, in answer to a question by the Norwegian Deputy, said that the Treaty would be made public at once and that he himself was about to meet the Press to make a statement in connection with it.

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MS-R(51) 25

Summary Record of a Meeting of the Working Group on Status, 27 June 1951

*I. Draft Agreement on the Status of NATO Civilian Staff.*¹

1. The Working Group gave a further reading to the draft Agreement on the Status of NATO Civilian Staff.

ARTICLE 1

2. In reply to a question by the United States Representative, the Chairman made it clear that the term "subsidiary bodies" applied both to the International Staff of the Organization and to the National Delegations. Where the military bodies were concerned, the exception provided in Article 2 *prima facie* covered both categories of persons. The Council might decide, however, that the Agreement would apply to the International Staff and not to the National Representatives. There was nothing in the text to prevent them from so deciding. The staff of the Council Deputies, such as the Secretariat, the Information Service, etc., did not constitute a subsidiary body in themselves, but it was clear that the provisions of the Agreement covered such staff.

¹ Reference: MS-D(51) 29(2R) (15 June 1951).

ARTICLE 8

3. The Italian Representative requested that the Summary Record should include the following explanatory note:

- (a) In the case of currencies that are not normally dealt with by the Italian Exchange Control authorities, the relevant exchange operations will be effected through an intermediate market abroad.
- (b) All transfers that are made within Italy, of funds held by the Organization, in the name and favor of the Organization itself or of residents abroad, are free; however, transfers in favor of residents of the Italian Monetary Area should be made in currencies that are acceptable by the Italian Exchange Control and under the Exchange Control Regulations in Italy.

ARTICLE 9(b)

4. The Belgian Representative said that in many countries imported articles were subject, not only to customs duties proper, but also to other taxes such as sales taxes for example. The Working Group agreed that the term "customs duties" in Article 9(b) was to be understood in its broadest sense and would accordingly cover, not only customs duties proper, but all other taxes levied on any articles imported into any national territory. This applied in particular to United Kingdom purchase tax.

ARTICLE 11

5. Several Representatives said that their Governments desired to abolish the preferential rates at present in force for telecommunications for the use of Governments, international organizations, etc. The Working Group agreed that the whole of Article 11 should be deleted.

ARTICLE 12

6. It was pointed out that under the terms of Article 4 the juridical personality was possessed by the Organization as a whole. It was accordingly agreed that the words "acting in the name of the Organisation" should be added to the end of the Article after the words "the Council." The same amendment was made to Article 25 and to the new Article 20 (see below).

ARTICLE 14, par. 1(h)

7. As in the case of Article 9, the Working Group agreed that the term "free of duty" covered all taxes of any kind which were levied on an article imported into the territory of one of the States.

ARTICLE 14, par. 3

7a. In connection with earlier discussion² of Article 14, par. 3, the United States Representative informed the Working Group that under existing United States statutes it might be necessary for the United States to require notification of visiting representatives as provided for in the Article.

ARTICLE 18

8. The Chairman made it clear that the procedure for deciding which categories of officials of the Organization would enjoy the privileges defined in the Agreement was in fact a bilateral procedure. It was stipulated, however, that any agreement of this kind should be communicated to the other Governments. It was also made clear that the United Kingdom Government was prepared to accord the privileges and immunities provided by this Agreement to those categories of NATO officials which corresponded to the categories of international officials enjoying such privileges in other countries.

ARTICLE 19(b)

9. The position with regard to this Article was as follows. The United States Government in particular desired to retain the right to levy United States income tax on the remuneration paid to United States officials employed in the Organization. This provision was essential to enable the United States Congress to ratify the Convention. On the other hand, the United Kingdom Government could only grant exemption from income tax to its own nationals employed in the Organization if the text of the Agreement made such exemption mandatory for all member States, or unless there were special circumstances which made it possible to differentiate. If the text of the Agreement left Governments free to decide whether or not to levy taxation, the United Kingdom Government would not be able to justify the exemption of United Kingdom officials before Parliament. In order to obviate this difficulty, the Chairman and the United States Delegation had submitted a new text for Article 19(b), which would become a separate Article. The wording of this Article restated the principle of exemption from taxation. It then provided, first, that a member State might make an arrangement with the Organization whereby it would pay its nationals in the Organization according to its own scale of salaries, and second, that the Organiza-

² See MS-R(51) 24, par. 28-33 (14 June 1951). (The whole of the present par. 7a was inserted in this Summary Record by corrigendum of 19 July 1951).

tion would credit to the member State the salaries which such officials would have received under the Organization's scale of salaries. Since the remuneration would then be paid direct by the member State, it could be taxed by that State without prejudice to the mandatory force of the principle that remuneration paid by the Organization itself was exempt from taxation. The text provided, however, that if such an arrangement entered into by a member State and the Organization was subsequently modified, the exemption provisions would cease to apply and the whole question would have to be the subject of new negotiations.

10. The Chairman pointed out that the latter provision, which was intended to meet the requirements of the United States Government, meant that, if an agreement of this kind ceased to apply for any reason, the whole body of provisions relating to exemption from taxation would become null and void, and all officials of the Organization, whether they were nationals of the member State which had entered into the agreement or nationals of a different State, would become liable for income tax. He wished to emphasize the fact that the difficulties inherent in the whole paragraph were not the making of the United Kingdom Government, which was perfectly prepared to exempt its nationals from the taxation in question, provided that other Governments accorded similar treatment to their nationals.

11. The French Representative said that all the members of the Working Group were, of course, anxious to help the United States and the United Kingdom Governments to find a solution to their difficulties. However, it seemed inadmissible that a denunciation, *ex hypothesi* unilateral, of an agreement entered into by twelve member States could affect the position of all the other parties to the Agreement. The position of an official who was not a United States national should not be affected by an arrangement which had been entered into by the United States and the Organization. The principle of exemption from taxation had been adopted in accordance with an Agreement entered into by twelve parties; and in the case indicated by the Chairman of exemption from taxation ceasing to be accorded, it was necessary that all twelve parties concerned should have the opportunity of expressing their views.

12. The United States Representative said that his Government certainly had no present intention of withdrawing from any arrangement which might be concluded in these circumstances. The final provision of the new Article 19 which he had asked to be included was essential from the point of view of the United States Congress. The latter wanted to be certain that, if for any reason an agreement relating to exemption should be brought to an end, each State would

be free to apply its own tax law to its own nationals. He thought that the guarantees which other Governments, members of the Organization, wanted would be better placed in the bilateral arrangements than in the Agreement on NATO Civilian Status itself.

13. The Italian Representative pointed out that the difficulties could be overcome by a slight modification of the wording of the last sentence. The important point was that, in the event of an arrangement such as that contemplated by the United States Delegation ceasing to apply, the system of exemption would continue to operate so long as a new arrangement was not made. What must be avoided was a breach in continuity between the system governing officials of the Organization after the signature of the present Agreement and the new system which would be applied after a withdrawal from a bilateral arrangement.

14. The Chairman noted that the Working Group had no objection to the principle of the taxation system envisaged by the United States Government. Equally, it was obvious that it was important to protect the rights of officials belonging to a third-party State. He asked the United States Representative if the deletion of the words "shall cease to be applicable" would be acceptable to him.

15. The United States Representative said that in any case he would have to refer the question to his Government.

16. It was agreed that provisionally the wording proposed by the United States Representative would be included in the Agreement as a new Article 19 and presented in that way to the Deputies. Pending the meeting of Deputies at which the draft Agreement would be examined, Representatives would attempt individually to find a different form of words or alternatively to see whether they could accept the present form. Should a modification appear necessary, the Working Group could meet again on the day before, or on the same day as, the draft Agreement was to be examined by the Council Deputies.

17. The Canadian Representative asked for the deletion, in the second sentence of the new Article 19, of the words "in accordance with its *own* scale" and of the words "of *all* its nationals." The present text seemed to impose an obligation on a State which wished to make an arrangement of the kind envisaged to grant automatically the national salary scale to officials of its own nationality in the Organization and to grant it to all such officials. It was not possible that the Canadian Government might wish to adopt a different scale from that of the Organization, if it wanted to increase the salary of its nationals, and it was not impossible that such a scale would apply only to certain grades.

18. The Working Group decided to replace the words "its own scale" by the words "a scale fixed by the Government" and to delete the word "all" before the words "its nationals."

ARTICLE 20

19. The first observation put forward concerned officials of the Organization other than those listed in the Article (Executive Secretary and Coordinator of the Defense Production Board) who were to enjoy the immunities and privileges normally granted to diplomatic representatives of comparable rank. It was pointed out that the corresponding official of the FEB would probably have a rank lower than that of the two officials referred to in the Article. However, the Working Group considered that the case of that official would have to be considered in due course. The words "of similar rank" had been adopted in preference to the words "of the same rank" in order to give the necessary elasticity.

20. The second observation related to the words of the Article, "in accordance with international law." The Chairman pointed out that the privileges which foreign diplomatic representatives in fact enjoyed in the United Kingdom might be more extensive than those strictly required by international law. They included both legal privileges and a certain number of privileges granted in virtue of international practice and by way of courtesy. Accordingly, to maintain the words "in accordance with international law" would result, so far as certain officials of the Organization were concerned, in limiting the grant of diplomatic privileges to those privileges specifically determined by international law. The privileges of these officials would therefore be less than those of diplomats resident in England. In order to avoid this restriction, he suggested that the words in question be deleted.

21. The Belgian Representative pointed out that international law provided in fact for two kinds of privilege only: immunity from jurisdiction and inviolability. Other privileges were granted simply as of courtesy. Now, the Working Group certainly did not intend to refuse the courtesy privileges to the officials covered in Article 20. He suggested that the present wording be replaced by the words "in accordance with international practice." The Chairman thought that this would lead to complications, since nobody could define accurately what was international practice.

22. The Italian Representative thought that the words "in accordance with international law" should remain. On the one hand, they were to be found in other international conventions; and on the other, Italian jurisprudence recognized no privileges in respect of the pri-

vate activities of diplomatic representatives in Italy. It was therefore necessary from the Italian point of view to retain the words in question.

23. The Working Group came to the conclusion, after discussion, that since Article 23 would be retained and the Article enabled a State to restrict the privileges granted to its own nationals working for NATO on its own territory, the words "in accordance with international law" should be deleted from Article 20.

ARTICLE 23

24. It was decided to retain Article 23, which gave discretion to a State to withhold the grant of privileges and immunities to its own nationals except in the three cases listed in the Article. The privileges and immunities which would not be granted included in particular those relating to exemption from customs. The immunity from income tax provided for in the new Article 19 would remain.

25. Mr. Bradford³ pointed out that Article 23 enabled a Government to restrict the privileges for its own nationals, not only in respect of the whole body of officials of the international Organization, but also of those listed in Article 20, who were to enjoy diplomatic privileges and immunities. The Working Group made it clear that this was in fact the intention of the text. There was no intention of granting to officials referred to in Article 20 diplomatic privileges and immunities when they were resident in the country of which they were nationals. The French Representative pointed out that, in the case of OEEC, the privileges of a head of a diplomatic mission granted to the Secretary-General, a French national, were not valid in France but only became valid when the Secretary-General was outside France. The Chairman pointed out that, when a foreign Government employed a British subject in their missions in the United Kingdom, it was the practice for the United Kingdom Government to make arrangements with the foreign Government concerned, whereby such British subjects did not enjoy the usual diplomatic privileges.

ARTICLE 27 (new)

26. The United States Representative asked for the insertion of the normal provision for withdrawal which appeared in most international Agreements. The Working Group decided to include this provision in a new Article 27.

³ Member of the International Staff of NATO.

SECURITY PROVISIONS

26a. The United States Representative stated that his country was considering the insertion of some security provision in the Agreement. However, as yet he had no instructions as to the nature of any provision that might be proposed by his Government.

COMPULSORY CAR INSURANCE

27. The Italian Representative pointed out that no provision compelling officials to take out third-party insurance for a motor car had been included in the Agreement.

28. It was pointed out that with regard to officials of the Organization there had been a recommendation to make third-party insurance compulsory.⁴ It was finally decided that the Chairman of the Council Deputies should make the recommendation necessary to ensure that all international officials should be covered by an insurance policy of this kind.

II. Future Work.

29. The Chairman noted that the Working Group was now agreed on the text of the draft Agreement, apart from the provisions of the new Article 19 discussed above. He proposed to have the draft Agreement circulated to the Deputies, together with a report which he would prepare himself. It was agreed that the draft Agreement could be discussed by the Deputies about 22 July and that signature might take place about a week after that. Owing to the parliamentary recess, the Agreement could not be ratified by the United Kingdom Government before Parliament reassembled in October. If modifications to Article 19 (new) were necessary, the Working Group would meet again before the meeting of the Council Deputies.⁵

D-R(51) 58

Summary Record of a Meeting of the Council Deputies, 25 July 1951.

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⁴ See MS-R(51) 24, par. 22(ii) (14 June 1951).

⁵ Subsequent to this meeting and after informal consultation among the French, United Kingdom and United States Representatives, a revised draft of Article 19 was prepared and issued as MS-D(51) 34 (19 July 1951). This revised draft formed the basis for subsequent discussions of Article 19.

*V. Draft Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff.*¹

50. The Council Deputies had before them a report by the Chairman of the Working Group and the Draft Agreement.²

51. Mr. Evans, Chairman of the Working Group, said that he had little to add to his report. The Working Group assumed that the report and the Agreement would be sent to Governments for consideration, in particular the new Article 19, the drafting of which had caused some difficulty.

52. The United States Deputy circulated an amendment to Article 18(b), the present wording of which appeared to his Delegation to be rather too wide.

53. Mr. Evans pointed out that, if the United States amendment were adopted, Article 18(d) should be amended on the same lines.

54. The Council Deputies:

- (1) Accepted the amendments to Article 18(b) and (d) without discussion.

55. The United States Deputy said that his Government will find it necessary to take measures to screen personnel covered by this Agreement who will have access to classified United States information. His Government had made a similar statement with regard to the Armed Forces Agreement.

56. The United Kingdom Deputy asked what was the feeling of Deputies as to the Standing Group, since it was the Deputies who were to decide, under the terms of the Agreement, whether or not the Standing Group was to be covered by it.

57. After a brief discussion, it was agreed that this point need not be examined at the present stage since it could be considered, under the terms of Article 2 of the Agreement, whenever the Council Deputies wished.

58. The Italian Deputy said that he was not in a position to state the views of his Government on the new Article 19, which was at present under discussion in Rome.

59. The Council Deputies:

- (2) Agreed to transmit the Report of the draft Agreement, as amended, to their Governments.
- (3) Agreed to place the question on the agenda for final consideration on 22 August 1951.

¹ Previous reference: D-R(51) 20, par. 33-36 (14 March 1951).

² D-D(51) 178 (24 July 1951), containing the revised text of the draft Agreement and a covering Report by the Working Group.

- (4) Took note of the statement made by the United States and United Kingdom Deputies referred to in paragraphs 53 and 54 above.

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D-R(51) 62

Summary Record of a Meeting of the Council Deputies, 21 August 1951.

I. Signature of the Agreement on the Status of NATO Civilian Staff.¹

1. The Chairman suggested that the signature of the Agreement on the Status of NATO Civilian Staff² might take place on Wednesday, 29 August 1951. He pointed out that the signatories should be furnished by their Governments with full powers by that date.

2. The Netherlands Deputy drew attention to Article 19, which provided that any member State might conclude an arrangement direct with the Council acting on behalf of the Organization, whereby the member State would undertake to pay the salaries and emoluments to its nationals serving in NATO. These nationals would then be subject to tax in their own country. It was intended that in the case of such an arrangement the salaries and emoluments normally due to the NATO officials concerned would be paid to the member State, but this was not expressed in Article 19. The Netherlands Deputy might suggest an amendment to complete the text in this respect. Besides, his Government would wish him to make a statement on the general purport of Article 19, which was not in agreement with his Government's general views. They had definitely preferred a different provision. This disagreement, however, would not lead to withholding the Netherlands signature or to a reservation on his Government's behalf.

3. The Canadian Deputy stated that his Government intended to make a formal reservation at the time of the signature of the Agreement; it desired to reserve the right to tax, in certain circumstances, the salaries and emoluments to be paid by the Organization to officials of Canadian nationality.

4. The Deputies of Belgium, the Netherlands and Luxembourg said that they would make a declaration at the time of the signature

¹ Previous reference: D-R(51) 58, par. 50-59 (25 July 1951).

² D-D(51) 178 (24 July 1951).

of the Agreement regarding the extent to which it would apply within the BENELUX Union, on the same lines as the declaration made at the time of the signature of the Agreement on the Status of Armed Forces.

5. The United Kingdom Deputy pointed out that this item was on the agenda for the meeting of 22 August 1951, and reserved the right to state his view on the matter at that meeting.³

6. The Chairman considered that it might be possible to refer the discussion of Article 19 to the Working Group. He hoped, however, that the signature of the Agreement could still take place on Wednesday, 29 August 1951.

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D-R(51) 63

Summary Record of a Meeting of the Council Deputies, 22 August 1951.

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*V. Agreement on the Status of NATO, National Representatives and International Staff.*¹

26. The Council Deputies had before them the draft Agreement² and a draft arrangement between the United States and the Organization.³

27. The Chairman said that the United States could accept the Agreement, provided the draft arrangement was approved by the Council Deputies. He pointed out that the word "employed" in the phrase "salaries and emoluments of United States nationals, who are employed by it and assigned to the Organization" did not in any way connote control or direction of the substantive activities of such officials by the United States Government or affect their obligations as international officials as prescribed in Staff Regulation 3. The word was used to meet the technical requirements of United States income tax terminology.

³ The reference is to the question of taxation, raised in par. 2-3, *supra*.

¹ Previous reference: D-R(51) 62, par. 1-6 (21 August 1951).

² D-D(51) 178 (24 July 1951), together with corrigenda of 10 August 1951, which have been indicated in the text of Article 18.

³ D-D(51) 211 (21 August 1951), which has been omitted since it is identical with the Agreement as signed by the United States and the Organization: D-D(51) 252 (9 October 1951).

28. There was no objection to the draft arrangement, other than a modification, proposed by the United Kingdom Deputy and accepted by the Chairman, to add "Deputies" to "North Atlantic Council" in line 9 of the preamble.

29. The Canadian Deputy said that he must make the following reservation in the name of his Government:

"The Government of Canada approved the Agreement on the Status of NATO Representatives contained in Document D-D(51) 178 of 24 July, with the reservation that the exemption from taxation defined in Article 19 of that Agreement shall not extend to a Canadian citizen residing or ordinarily resident in Canada. Such a person will remain subject to taxes imposed by any law in Canada."

His Government attached great importance to the reservation as a matter of principle, though the practical effects were likely to be negligible. His Government wished to make the reservation formally when signing the Agreement.

30. The United Kingdom Deputy said that this reservation, particularly if it was to be made on signature of the Agreement, reopened a particularly complex question which he had hoped had been settled. If the result of the reservation was that Canada in fact taxed any of its nationals employed by the Organization, the United Kingdom might well find itself obliged to tax all United Kingdom nationals employed by the Organization. He must therefore reserve his position until the precise practical effect of the Canadian reservation was known.

31. The Chairman said that, in the light of these two statements and since the effect of the Canadian reservation was not clear, the Working Group on the Status Agreement would have to meet again. He hoped that it would find a solution quickly, because if no solution could be found, the salary scales approved in the Budget would have to be reconsidered.

32. The Netherlands Deputy said that he also had a statement to make on Article 19, since his Government was not satisfied with that Article; but he would defer making it until the position with regard to the Canadian reservation was clear.

33. The Belgian Deputy said that he had an observation on Article 19 which he would make when the Working Group met. He added that he proposed to make a declaration, in the name of the BENE-LUX countries, on signing the Agreement, exactly similar to that made on signing the Armed Forces Agreement. He agreed, at the Chairman's request, to circulate the text of the declaration to the Deputies.

34. The Portuguese Deputy said that he was awaiting instructions from his Government with regard to Article 6.

35. The United Kingdom Deputy said that his Government considered that the Standing Group and its subordinate agencies should be covered by the Civil Status Agreement; it might also be advisable to include the Military Representatives Committee. This could either be done by redrafting Article 2 or by the Deputies agreeing in advance among themselves that they would use the power given them under Article 2 to include certain military bodies, which could be specifically named. His Government was not prepared to sign the Agreement unless one of these two alternative procedures was agreed.

The Danish Deputy supported the United Kingdom point of view.

36. The French Deputy supported the United Kingdom Deputy in principle, but said that Headquarters, as opposed to military agencies, should not be included. With regard to procedure, he thought it would be better to avail themselves of their powers under Article 2. Finally, he asked the Chairman if the date of signature could be arranged in such a way as to enable M. Alphand to be present.

37. The Chairman stressed the need for speed if the Agreement was to be signed, as he hoped it would be, before the Ottawa meeting.

38. After further discussion, the Council Deputies:

Agreed to refer the Canadian reservation on Article 19, and the question raised by the United Kingdom Deputy in connection with Article 2, to the Working Group.

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MS-R(51) 26

Summary Record of a Meeting of the Working Group on Status, 24 August 1951

1. Draft Agreement on the Status of NATO Civilian Staff.¹

1. The Chairman recalled that, at their meetings of 21 and 22 August, the Deputies, when examining the draft Agreement on the

¹ Reference: D-D(51) 178 (24 July 1951), with corrigenda of 10 August 1951, which have been indicated in Article 18.

Status of NATO Civilian Staff, had made a number of observations.² He proposed taking each in turn.

2. The United Kingdom Deputy had suggested that the Standing Group, the Military Representatives Committee, and other military bodies should be covered by the Agreement on the Status of Civilian Staff. If this in fact was to be done, the first question to decide was whether Article 2 of the draft Agreement should be amended or left as it was. In the latter case, the Council would simply be asked to adopt a Resolution.

3. The majority of Representatives were ready to accept the inclusion of military bodies in the Agreement on the Status of Civilian Staff. They also agreed not to amend the text of Article 2, so as not to complicate matters further. The United States Representative, however, pointed out that it was not certain whether the Standing Group wanted to be covered by the Agreement on the Status of Civilian Staff. He believed that the Standing Group would prefer to be included in the Agreement on the Armed Forces.

4. It was pointed out by several Representatives that the Standing Group, although composed of representatives of the forces, was not organized into a body like an armed force. It was composed of representatives of each of the States and therefore was much more like the agencies covered by the Agreement on Civilian Staff.

5. The Working Group finally expressed its agreement with the United Kingdom Deputy's proposal at the Council Deputies' meeting. The Chairman was to prepare a draft resolution. At the request of the French Representative, the draft resolution was to contain an accurate list of the names of the various subsidiary bodies covered by the Agreement. The purpose of this was to ensure that, if fresh subsidiary bodies were created, they should not automatically be included in the Agreement without the necessary resolution of the Council.

6. The Chairman recalled that the United States Deputy had suggested that the text of Article 2 should be made more elastic, so as not expressly to exclude the possibility of the Council deciding to make the Agreement on Civilian Staff applicable to Headquarters.

7. The Working Group finally decided to leave Article 2 in its original form. The Regional Planning Groups which were in process of being wound up would not be covered by the Agreement.

² D-D(51) 62, par. 1-6 (21 August 1951; D-R(51) 63, par. 26-38 (22 August 1951). Comments were also made by the Deputies at their meeting of 25 July 1951: D-R(51) 58, par. 50-59.

8. The Chairman turned to consideration of Article 19. He recalled that the Canadian Deputy had stated that he would be obliged to make a reservation at the time the Agreement was signed, to the effect "that exemption from taxation imposed by any law in Canada on salaries and emoluments shall not extend to a Canadian citizen resident or ordinarily resident in Canada." He drew attention to the position of the United Kingdom Government as defined by him on a previous occasion.³ Hence, if Canada maintained her reservation, the United Kingdom Government would also be obliged to add a reservation to the effect that the United Kingdom would be entitled to tax its nationals if any other country did the same, unless such taxation was made in accordance with the arrangements provided for in Article 19. This would arise, for instance, if the Organization were to recruit a Canadian direct, were to pay him, and if this Canadian were then taxed by his own Government.

9. Mr. Charlton⁴ pointed out that the inclusion of the Canadian reservation would upset the administrative arrangements of NATO. The salaries had, in fact, been fixed free of tax. If, therefore, these salaries were to be taxed, it would be necessary to cancel all the contracts which had been made, to make a considerable increase in salaries (and, as an additional complication, to a varying extent according to country), and, as a result, to raise the contributions from the various countries as well.

10. The Canadian Representative stated that for the time being he could only make known the Canadian Government's intention to append a reservation to the Agreement. The point raised would have to be re-examined by the Canadian Cabinet. He wished to make it clear that the effect of this reservation should not be exaggerated in the manner suggested by Mr. Charlton. Clearly, the Canadian Government would not upset the whole working of NATO, though it might mean that Canadians might be excluded from the Secretariat.

11. Mr. Charlton stated that the problem was an urgent one, because the Organization was employing Canadian citizens and was negotiating to employ others.

12. The Danish Representative suggested that, if the Canadian Government maintained its reservation, it should do so in such a way that in practice the reservation was inoperative.

13. The Netherlands Representative stated that his Government had not understood that the system described in Article 19, by

³ See MS-R(51) 25, par. 9 (27 June 1951).

⁴ Member of the International Staff of NATO.

which a Government could pay directly any of its citizens employed in NATO, would only apply in cases where the salary paid by such Government was higher than that paid by NATO. He would, therefore, have to consult his Government on this point.

14. The Chairman proposed that the Working Group should wait for the final decision of the Canadian Cabinet. If the reservation was withdrawn, it would not be necessary to call another meeting of the Working Group, since the text of the Agreement would not contain any amendment. If the reservation was maintained, it would be necessary to call another meeting to reconsider the problem. It was in any case doubtful whether the Agreement could be signed before the Deputies left for Canada.

D-R(51) 66

Summary Record of a Meeting of the Council Deputies, 14 September 1951.

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V. Agreement on Status of NATO, National Representatives and International Staff.

52. The Chairman suggested that this item was in fact cleared, since the reservations in connection with it, in particular that of the Canadian Government, had now been withdrawn.

53. The Canadian Deputy said that his Government had withdrawn its reservation on Article 19, because it considered that the principle of the right of any nation to tax its nationals working for NATO remained unaffected. His Government also wished it to be made quite clear that the signature of the Agreement should be without prejudice to the position of the Canadian Government in respect of any future arrangements regarding Canadians employed by international organizations. His Government also intended to make an agreement with the Organization under the provisions of Article 19 similar to that made by the United States. The final draft of that Agreement would not be ready in time for the signature of the main Agreement, but would be circulated in draft form well in advance of the time when the Canadian Government proposed to sign the subsidiary Agreement.

54. The Chairman, supported by the United Kingdom Deputy, thanked the Canadian Government for the spirit of compromise it had shown, which was an important factor in helping the progress of the Organization.

55. The Chairman suggested that the following documents should be formally approved at the same time as the Agreement was signed:

- (a) The resolution advocating administrative action to give effect to the Agreement before parliamentary ratification.
- (b) The joint statement by the BENELUX countries.
- (c) The resolution in connection with Article 2 of the Agreement.

56. The Portuguese Deputy said that his Government would make a reservation on signature in connection with Article 6. At the request of the Chairman, he agreed to submit a text of the reservation so that Deputies could see whether it would substantially affect the position of their own Governments, which at first sight seemed unlikely.

57. The Netherlands Deputy made the following statement of his Government's position with regard to Article 19:

"In connection with Article 19 of the draft Agreement concerning the status of the staff of the North Atlantic Treaty Organization, I wish to submit that the fiscal position of the staff of international organizations has been studied by the member States of the Brussels Treaty. Representatives of the competent authorities of these member States have discussed this subject in detail in Paris on 5 February 1951. Certain recommendations were unanimously adopted and submitted to Governments. The experts expressed the wish that these recommendations be taken into account whenever future international organizations were set up. As to the income tax, it was recommended that an international organization shall fix the remuneration of its staff so as to allow for the imposition by the Organization of an annual tax on all salaries, allowances and emoluments, etc.; this tax to be levied by means of a deduction at the source; the salaries paid by the international organization to its officials to be exempt from taxation in member States; member States, in levying income tax, to deduct an amount proportioned to the remuneration in question.

"These recommendations have been taken into consideration not only by the member States of the Brussels Treaty, but also by the Fiscal Commission of the Social and Economic Council of the United Nations.

"The Netherlands representative in our Working Group introduced the aforementioned recommendations. I would like now to draw them to the special attention of Deputies as my

Government feels that they offer a satisfactory and equitable solution to the tax problem.

“Article 19 is based on different principles. In the interest of unanimity my Government, however, does not wish to withhold its cooperation.

“If the recommendations of Paris should in the future gain wider recognition, my Government might take the initiative for a reconsideration of the provisions of Article 19.”

58. The Council Deputies:

Agreed that the Agreement should be signed in Ottawa, if materially possible, during the Council Meeting. The Agreement would be signed by Council Deputies, who would obtain the necessary plenipotentiary powers. The three documents referred to in paragraph 55 above would be formally approved at the same time as the signature of the Agreement.

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D-R(51) 67

Summary Record of a Meeting of the Council Deputies, 20 September 1951.

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V. *Agreement on Status of NATO, National Representatives and International Staff.*

17. The Council Deputies:

On behalf of their Governments signed the Agreement on the Status of NATO, National Representatives and International Staff.¹

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D-R(51) 68

Summary Record of a Meeting of the Council Deputies, 3 October 1951.

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¹For final text, see page 34, *supra*. This text was also distributed on 20 October 1951, for information and record purposes, as D-D(51) 178(F).

*IX. Agreement on the Status of NATO, National Representatives and International Staff.*¹

52. The Chairman pointed out that there were two resolutions and one declaration in connection with the above Agreement which it had been intended to adopt or to note at the time of the signature of the Agreement. Since that had not been done, he proposed that the Council Deputies should formally do so at the present meeting.

53. The Council Deputies:

- (1) Adopted the Resolution recommending provisional implementation of the Agreement.²
- (2) Adopted the Resolution deciding to apply the Agreement to certain military bodies of NATO.³
- (3) Took note of the Declaration by the Governments of Belgium, Luxembourg and the Netherlands.⁴

D-R(51) 88

Summary Record of a Meeting of the Council Deputies, 12 December 1951

I. Agreement on the Status of NATO, National Representatives and International Staff.

1. The Council Deputies signed an agreed minute to the above Agreement, worded as follows:

The Council Deputies, having observed the discrepancies in the English and French text of Articles 14 and 16 of the Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff, signed in Ottawa on the 20th September 1951, agree on behalf of their Governments that the English text is correct and the French text should read as follows:

“Article 14. Le personnel officiel de secrétariat qui accompagne le représentant d'un Etat membre et qui n'est pas visé aux articles 12 ou 13 bénéficie, au cours de son séjour sur le territoire d'un autre Etat membre pour l'exercice de ses fonctions, des privilèges et immunités prévus au paragraphe 1(b), (c), (e), (f), (h) et (i) et au paragraphe 2 de l'article 13.

¹ Previous reference: D-R(51) 67, par. 17 (20 September 1951).

² D-D(51) 206 (16 August 1951).

³ D-D(51) 229 (7 September 1951).

⁴ D-D(51) 224 (31 August 1951).

“Article 16. Les dispositions des articles 12 à 14 ci-dessus ne peuvent obliger un Etat à accorder l'un quelconque des privilèges et immunités prévus par ces articles à un de ses ressortissants ou à un de ses représentants, ainsi qu'à un membre du personnel officiel de ce dernier.”

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MS-R(52) 1

Summary Record of a Meeting of the Working Group on Status, 16 January 1952¹

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*II. Examination of Proposed Claims Procedure under Article VIII of the Status of Forces Agreement.*²

26. The Working Group proceeded to the examination of the claim procedure proposed in D-D(51) 269, Annexes A and B.

ANNEX A

27. The Chairman pointed out that it was intended that the procedural arrangements should apply only when Article VIII had come into force.

28. It was agreed that there should be no legally binding agreement, but simply a general administrative understanding on the method of implementing Article VIII. It was agreed that the draft Resolution should be redrafted to this effect and that Annex B should be examined on this basis.

ANNEX B

29. Paragraph 1(a). It was agreed to delete the words “or Department” and substitute “or Offices.”

30. Paragraph 2(a), (b) and (c). It was agreed to delete the words “or Department” whenever they occurred. In paragraph 2(a), it was agreed to amend the words “paragraph 1 or 2 of Article VIII” to “paragraphs 1, 2 or 4 of Article VIII.” In para-

¹ The Chairman for all the meetings of the Working Group recorded in MS-R(52) 1-9 (16 January 1952 to 10 July 1952) was Mr. W. V. J. Evans, United Kingdom Representative.

² D-D(51) 269, Annexes A and B (29 October 1951). For the text of Article VIII, see page 19, *supra*.

graph 2(c), it was also agreed to amend "within 21 days" to "within 6 weeks."

31. Paragraph 3. It was agreed that there should be inserted in paragraph 3 a sentence to the effect that if the receiving State so requested, the authorities of the sending State should make such arrangements as were practicable to secure that the Office of the Receiving State be notified directly by the service unit or formation concerned.

32. Paragraph 3(d). It was agreed to delete the last sentence. It was also agreed that in its report the Working Group would suggest that it might be advisable for the Military Standardization Agency to consider the question of a standard form. Each country might submit, as a guide, the form which it commonly used.

33. Paragraph 3(e). It was agreed to amend the word "require" to "request" and to delete the words "in its own interests." It was also agreed that the United Kingdom Delegation and the Secretariat should draft a sentence to the effect that the Office of the Sending State should notify the Office of the Receiving State as to any disciplinary action taken.

34. The United States Representative reserved his country's position on the final draft of this point.

35. Paragraph 5(a)(vii). It was agreed to add the words "or property" and "personnel."

36. Paragraph 5(b). It was agreed to delete paragraph 5(b).

37. Paragraph 6. Consideration of this paragraph was left over to the next discussion of the document.³

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MS-R(52) 2

Summary Record of the Meetings of the Working Group on Status, 17 and 18 January 1952

*I. Consideration of Draft Protocol on the Status of Allied Headquarters.*¹

PREAMBLE

1. In reply to the Norwegian Representative, the Chairman said that this Protocol should apply at the same time to Headquarters, their forces and the civilian component of their staff. He proposed to draft a Preamble to that effect.

³ See MS-R(52) 3, par. 11-20 (22 January 1952).

¹ Reference: D-D(51) 300(R) (3 January 1952).

2. The Working Group:

- (1) Agreed that the Preamble drafted by the Chairman ² should be considered at a later date. "SHAPE" should be replaced by "Supreme Headquarters."

ARTICLES 1 and 2

3. The Canadian Representative said that this Protocol should apply to all principal and subordinate international Headquarters down to the level of Commander-in-Chief. Local arrangements would be the subject of a bilateral agreement with the host countries.

4. In the course of a discussion on the interpretation of the term "Supreme Allied Headquarters" and "Subordinate Allied Headquarters," the French Representative said, with respect to subparagraph (d) of Article 2, that since the draft Protocol had been prepared, the NATO Defense College had been set up. The Protocol should perhaps apply to the cadres of bodies of this type.

5. The Danish Representative thought it preferable to leave [it to] the Council Deputies to decide in each individual case whether a subordinate Headquarters was in question.

6. The Canadian Representative thought that it would be better to adopt a very broad definition covering all international military Headquarters of some substance, which would exclude liaison missions, training schools, etc. He added that his Government would have difficulty in signing any Protocol which included bodies such as the one to which the French Representative had referred.

7. The SHAPE Representative gave a list of the various Headquarters subordinate to SHAPE Supreme Headquarters and commanded by a Commander-in-Chief. There were various subordinate Headquarters which depended on these Headquarters and were not directly linked with SHAPE, among which only the Headquarters Allied Land Forces in Norway and Denmark were subordinate but not international Headquarters. They alone would be excluded from the definition of subordinate international Headquarters.

8. The Representatives of Belgium and Portugal thought that the receiving State could be left to decide in each individual case whether any given Headquarters was covered by the definition appearing in the Protocol.

9. In the course of a discussion during which the Chairman proposed to include the definition of force and civilian component in the Protocol, the French Representative said that it would not be possible to extend the special provisions of the Protocol to all civilian

² MS-D(52) 3 (18 January 1952).

personnel; the Protocol should not apply to personnel recruited locally, who were subject to common law, and he therefore considered it unnecessary to give any definitions other than those of the Agreement.

10. The SHAPE Representative observed that the Supreme Headquarters was gradually losing the characteristics of a purely military and operational Headquarters. SHAPE was finding it more and more impossible to entrust certain specialized tasks to military personnel.

11. The Working Group:

- (2) Requested the Chairman to prepare a redraft of this Article taking into account the points raised in the course of discussion, particularly with respect to the definition of force and civilian component (Articles 1 and 3 of MS-D(52) 3).

ARTICLE 3

12. The French Representative explained that it had been necessary to take a general rule as a guide when interpreting the Agreement. The Protocol distinguished between, on the one hand, the members of a Headquarters subject to the provisions of the Agreement when they were not engaged in the performance of their duties, and, on the other hand, the members of the same Headquarters when engaged in the performance of their duties. In the latter case, the rights and obligations of the sending State were vested in or incumbent upon SHAPE. It seemed to him that the relations between a State and its nationals could only exist as between SHAPE and its staff when the latter were on duty.

13. The Chairman, supported by several Representatives, thought that it would be better, generally speaking, to consider SHAPE as the sending State, even if the Articles of the Agreement had to be examined one by one to lay down the exceptions to this rule. It appeared to him that it would sometimes be difficult to decide when an individual was or was not engaged in the performance of his duties.

14. The SHAPE Representative confirmed that SHAPE wished to be considered as the sending State. In the case of claims in respect of traffic accidents for which SHAPE was responsible, SHAPE would be considered as the sending State and such claims would be paid out of the international budget.

15. After long discussion, the Working Group:

- (3) Requested the Chairman to prepare a redraft of this Article along the lines indicated in paragraph 13, above. (See Article 4 of MS-D(52) 3).

ARTICLE 4

16. The Chairman and several Representatives considered that members of Allied Headquarters should carry an individual or collective movement order, in addition to their identity card.

17. The SHAPE Representative confirmed that members of Headquarters always carried such movement orders and for this reason the Protocol required only an identity card.

18. The Italian Representative thought that it would be desirable for the Headquarters to provide the host country at regular intervals with a list of dependents. The Chairman replied that it would be preferable to include this provision in the bilateral agreement.

ARTICLE 5

19. The Working Group:

- (4) Agreed that the word "military" should be inserted in the English text before the word "police" (see Article 6 of MS-D(52) 3).

ARTICLE 6

20. In reply to a question by the United States Representative, the Chairman pointed out that, according to document D-D(51) 217, immovable property (fixtures) provided with or without charge by the receiving State would revert to the possession of the receiving State when they were no longer needed by the Headquarters.

21. The Italian Representative raised the question of a distinction to be drawn between permanent buildings and alterations on the one hand, and semi-permanent buildings and alterations on the other hand.

22. Following a discussion on this point, the United States Representative inquired whether the French Government would agree to the transfer of the provisions of this Article to the bilateral agreement between the Supreme Headquarters and the receiving State. The majority of Representatives preferred to see them included in the bilateral agreement.

23. The Working Group:

- (5) Agreed that Article 6 should be deleted, on the clear understanding that the corresponding provision would be included in the bilateral agreement between the Headquarters and the receiving State.

ARTICLE 7

24. The Canadian Representative considered that the wording of this Article was far too broad, and he thought that there should be

a single negotiating party entitled to conclude contracts, particularly in view of the fact that the Supreme Headquarters alone possessed a budget. The United States Representative associated himself with this view.

25. The Chairman said that he would like to see a wording adopted along the lines of the provisions of the Agreement on the Status of NATO Civilian Staff, to the effect that the Supreme Headquarters should possess juridical personality.

26. After some discussion, the Working Group:

(6) Requested the Chairman to prepare a redraft of this Article.

The French Representative agreed in principle, but reserved his final approval.

ARTICLE 8

27. The French Representative stated that SHAPE enjoyed immunity in respect of measures of execution of court decisions, but that it did not enjoy immunity from the obligation to appear before the court.

28. The Representatives as a whole were agreed in recognizing that SHAPE should not enjoy the latter immunity. As the United States Representative had no instructions on this point, however, he reserved his position.

29. The Chairman said that in D-D(52) 2, par. 15, SHAPE requested that a new Article should be inserted between Articles 8 and 9, to the effect that: whenever SHAPE made for its own official use important purchases whose price included excise duties and sales tax, Governments of States parties to the North Atlantic Treaty should take appropriate administrative measures to ensure the remission or reimbursement of the amount of such duties and taxes. SHAPE was here proposing to repeat a provision appearing in Article 10 of the Agreement on the Status of NATO Civilian Staff. He raised the question whether SHAPE should be assimilated to the civilian side of NATO in respect of provisions relating to such duties and taxes.

30. The French Representative pointed out that the Agreement on the Status of the Armed Forces did not provide for exemptions of this type.

31. The United States Representative was of the opinion that these questions should be settled on a bilateral basis. The Canadian Representative pointed out, however, that if the Deputies were to accept the principle of a bilateral agreement in this case, the provision in question would be contrary to the agreement on the Status of the Armed Forces.

32. The SHAPE Representative pointed out that the bilateral

agreement solution would introduce differences between the various countries, and SHAPE might tend to develop only in those countries in which these taxes were not charged. If this question was not settled satisfactorily in one or the other of the special agreements, it would be referred to a higher level and re-examined, but, in fact, SHAPE would be compelled to accept a *fait accompli*. Finally, he added that these taxes were fairly high—about 17%—and this was a sort of tithe levied by the French Government upon the international budget without there being any reciprocity for other countries.

33. The Chairman agreed that paragraph 8 of Article IX of the Agreement on the Status of the Armed Forces did in fact apply to SHAPE in this case.

ARTICLE 9

34. The French Representative first of all submitted his comment on paragraph (b) of Article 9, basing these on the report addressed to the Deputies.³ He pointed out that the volume of expenditure of a Headquarters was greater than that of a civilian body and that the facilities granted to the latter could not therefore be granted to SHAPE. He added that the Agreement with SHAPE had been in force for a year without any difficulties in implementation having arisen.

35. The SHAPE Representative said that SHAPE wished for the same treatment as, for example, the Committee of Military Representatives. While it was true that the volume of expenditure was greater than that of a civilian body, 90% of the total expenditure of the international budget was incurred in France. SHAPE considered there was no need to add additional restrictions to Article 8 of the Agreement, whereby the receiving State was the sole judge of the facilities to be granted to Headquarters. If this Agreement had worked out satisfactorily during the past year, it was because of the extensive facilities the French Government had been able to grant as a result of EPU. If the EPU ceased to function, SHAPE could no longer utilize the currency exchange system whereby any currency held by a NATO country—with the exception of U.S. and Canadian dollars—might be converted into any other NATO currency.

36. The French Representative stated that in a text which would apply to all NATO countries it would not be advisable to go beyond the wording of paragraph (b) of Article 9. Though 90% of expenditure was paid in French francs, SHAPE had every possibility of converting its other currencies.

37. The Italian Representative said that his Government would

³ D-D(52) 2 (3 January 1952).

prefer transfers of SHAPE funds from one country to another to conform to the laws and regulations of the receiving State.

38. The Danish Representative stated that his Government would like transactions involving Danish crowns to be effected through the National Bank of Denmark.

39. The SHAPE Representative explained that originally SHAPE was only to have current accounts in the "Banque de France"; subsequently it had opened accounts with the national banks of NATO countries and at the present time all its transactions in Danish crowns were carried out in Denmark.

40. He added that Article 9 should give greater facilities to SHAPE. As an example, he mentioned that, in the event of France not having any Norwegian crowns, the Supreme Headquarters would find itself in the impossibility of transferring money to Headquarters Northern Command. He therefore urged that the facilities granted to SHAPE should not be confined to the somewhat vague sentence in paragraph (b) of Article 9.

41. The Representatives in the Working Group all being agreed that the French text was acceptable, the Working Group:

- (7) Accepted provisionally the text of Article 9, while reserving the possibility of re-examining it at another meeting. It was, of course, understood that, as at present worded, this Article committed the Government concerned to accord SHAPE every facility at its disposal.

ARTICLE 10

42. The Norwegian Representative stated that his Government would like the clauses adopted for this Article to be the same as those in Articles 6 and 7 of the Ottawa Agreement.

43. The Portuguese Representative recalled that his Government had already made a reservation with regard to Article 6 of the Agreement on the Status of Civilian Staff. This reservation was maintained.

44. The SHAPE Representative said that SHAPE would have liked to have been granted inviolability for its Headquarters; it was able to secure from the French Government inviolability only as regards its documents; this, however, was the more essential of the two.

45. The Chairman considered that the third paragraph of Article 10 went a little too far in permitting the authorities of the receiving State to request that a qualified representative of the Headquarters concerned satisfy himself in their presence that archives were of an official character.

46. After a further exchange of views, the French Representative

agreed that the Article should refer only to a check being carried out by a qualified representative of the Headquarters at the request of the receiving State.

47. The Working Group:

- (8) Agreed that the latter part of this Article should be re-drafted to take into account the comments made during the discussion.

ARTICLE 11

48. The Chairman, speaking as United Kingdom Representative, considered that it would not be desirable to grant diplomatic privileges and immunities to a new category of staff. He added that the Agreement on the Status of Armed Forces provided for immunities enabling this category of personnel to perform their duties, and he proposed that Article 11 be deleted. He considered that his Government would not be in a position to sign the Protocol if it included this Article in any form whatsoever.

49. A number of delegates agreed with the United Kingdom Representative.

50. The French Representative pointed out that the immunities in question had been granted largely because of the personal prestige of General Eisenhower, and he added that France would maintain on a unilateral basis the immunities already granted to General Eisenhower.

51. The Working Group:

- (9) Agreed to delete Article 11.

ARTICLE 12

52. The Chairman considered that the manner in which this Article was to operate would have to be determined by a bilateral agreement in every case, and he proposed that the Article be deleted purely and simply.

53. The Danish Representative agreed and said that the adoption of the Article would entail a modification of Danish legislation.

54. The French Representative pointed out that the Article had been included in the Protocol because it concerned all NATO member States and all members of Headquarters. The object of a military postal service was to enable members of Headquarters to pay inland, instead of international, postal rates when corresponding with their families. So far, in addition to a French civilian post office, there were two post offices, one British and the other American. This Article would make it possible to grant to nationals of all countries the same privileges as were granted to American and British personnel.

55. The Chairman said that he did not feel it was necessary that there should be a multilateral agreement to this end; a bilateral agreement would suffice.

56. The SHAPE Representative would prefer this Article to remain in the Protocol.

57. As a number of delegates were in favor of deleting this Article, the Working Group:

- (10) Agreed to delete Article 12 provisionally and to re-examine possible solutions at a subsequent meeting.

SETTLEMENT OF DISPUTES

58. The Working Group:

- (11) Requested the Chairman to draft an Article in this connection on the lines of Article XVI of the Armed Forces Agreement.

ARTICLE 13

59. The Chairman proposed that the first sentence of this Article be deleted and pointed out that a clause would have to be inserted which provided for its denunciation. He proposed that the Article be revised accordingly.

ARTICLE 14

60. Some delegates considered that this Article should refer to Article XV, as well as to Article XVII, of the Agreement.

61. The Working Group:

- (12) Took note of the above.

II. Examination of the Draft Agreement between the French Government and SHAPE.⁴

62. After a brief examination, comments were made on Articles 1, 2, 3, 5, 6, 7, 9, 10, 11, 13, 15, 16 and 17 of this draft Agreement.

63. The Working Group:

- (13) Agreed to re-examine at a later meeting the comments made.⁵

III. Program of Work of the Group.

64. The Working Group:

- (14) Agreed to meet on Tuesday, 22 January, to examine the draft report on the implementation of the Armed Forces

⁴ D-D(51) 301(R) (3 January 1952).

⁵ See MS-R(52) 4 (23 January 1952).

Agreement,⁶ the draft resolution on the implementation of Article VIII,⁷ the revised draft Protocol extending the Agreement to cover Allied Headquarters,⁸ and finally, the draft report of the Working Group to the Council Deputies.⁹

MS-R(52) 3

Summary Record of a Meeting of the Working Group on Status, 22 January 1952

*I. Examination of the Draft Report on Implementation of the Status of Forces Agreement.*¹

* * * * *

4. The Secretary of the Working Group said that the Icelandic Deputy was to make a statement during the week, which would refer to the statement made on behalf of Iceland at the time when the treaty had been discussed. Iceland wished to reserve the possibility of not ratifying the Protocol, as she had signed a separate treaty with the United States determining the status of United States forces in Iceland.²

* * * * *

10. The Netherlands Representative then raised the following question. If a member of a force was arrested for an offense by the authorities of the receiving State, and the latter did not wish to exercise their right of jurisdiction, were they entitled to request the military authorities of the sending State to take the offender into custody? The majority of the Group replied in the affirmative and agreed that,

⁶ MS-D(52) 2 (21 January 1952), which has been omitted.

⁷ MS-D(52) 1 (18 January 1952). This has been omitted since it is identical with the text in D-D(52) 26, except for minor textual variations which are noted in the latter document.

⁸ MS-D(52) 3 (18 January 1952).

⁹ MS-D(52) 4 (21 January 1952), which has been omitted, since it is substantially the same as D-D(52) 24 (24 January 1952).

¹ Reference: MS-D(52) 2 (21 January 1952), which has been omitted. Of Item I in this Summary Record, only par. 4 and 10 are reproduced above, the remaining paragraphs (1-3, 5-9) being concerned only with the temporary steps being taken by various States to secure provisional implementation of the Status of Forces Agreement in advance of its ratification.

² For text of this treaty, see MS-D(51) 31 (25 May 1951).

if a sending State wished to exercise its right of jurisdiction, it should naturally be responsible for the custody of the offender.

*II. Examination of the Draft Resolution and Annex on the Implementation of Article VIII.*³

ANNEX, par. 3(a)

11. The Chairman pointed out that the second sentence of subparagraph 3(a) had been added in order to meet a point raised by the Belgian Delegate. The United States Representative felt his Government might not be in favor of the addition and recalled the reservation he had made previously touching this matter.

ANNEX, par. 3(e)

12. The Chairman considered it would be advisable to substitute "such other action as" for "such action as" in the last line of subparagraph 3(e).

ANNEX, par. 3(f)

13. The Chairman pointed out that the United States wished to make a reservation concerning paragraph 3(f). Paragraph 5 of Article VIII related to claims made against a force in respect of damage caused by it to another party. It would be useful if the receiving State could be informed whether the appropriate disciplinary measures had been taken by the sending State against the person (whether a member of a force or civilian component) responsible for the damage. He considered that the reply of the sending State should be given only if specifically requested.

14. After a brief discussion, the Working Group:

- (5) Agreed to modify the drafting of subparagraph 3(f) so as to specify that requests of that kind should be confined to individual cases and be met only after the claim for compensation had been settled by the receiving State.

ANNEX, par. 5

15. Following a remark made by the Netherlands Delegate, it was decided to substitute "a third party" for "the person" in the last line of subparagraph 5(vii).

³ Reference: MS-D(52) 1 (18 January 1952). This has been omitted since, except for minor textual variations, it is identical with the text in D-D(52) 26 (23 January 1952), the points of difference being indicated in the latter document to which, therefore, reference should be made in connection with the discussion at the present meeting.

ANNEX, par. 6

16. The Chairman withdrew a request that this paragraph be inserted in the document, but nevertheless considered that it would be entirely to the advantage of the Contracting Parties to do so. Several members of the Group agreed.

17. The French Representative pointed out that the only weakness of this paragraph was that he found it difficult to agree that the responsibility of an insurer should replace that of the State. In view of this, he proposed the addition of the following: "without prejudice to the responsibility of the State."

18. The Working Group:

(6) Agreed to retain paragraph 6, amended as follows:

"... for the purpose of regulating claims arising out of vehicle accidents may arrange with any other Contracting Party to extend such arrangements ..."

THE RESOLUTION

19. The Chairman proposed that the English version of the last line of the resolution be amended to read "is brought into effect" instead of "enters into force," since the latter wording might wrongly suggest that it would be put into effect after the ratification of the Agreement.

20. The Working Group:

(7) Approved the draft resolution as amended in accordance with the above interpretation.

*III. Examination of the Revised Draft Protocol on the Status of Allied Headquarters.*⁴

PREAMBLE

21. The French Representative considered that the Preamble, in mentioning the establishment of a Headquarters, should refer to a special agreement. He would prefer the second paragraph of the Preamble to read as follows: "Considering that International Military Headquarters may be established in their territories through special agreements, under the North Atlantic Treaty."

22. The Chairman proposed that in the English version the word "arrangement" be preceded by "separate."

23. The Working Group:

⁴ Reference: MS-D(52) 3 (18 January 1952).

- (8) Approved the Preamble, with the amendments made to the English and French versions.

ARTICLE 1

24. The Chairman pointed out that the object of the sentence between square brackets at the end of subparagraph (c) of this Article was to avoid certain components of armed forces being covered neither by the Agreement nor by the Protocol, as it would then be necessary to draft a third agreement later on.

25. The French Representative agreed with the Chairman that, if the staff of subordinate integrated Headquarters or other integrated military bodies were not all covered by this Protocol, some staff would have no status. He therefore proposed that this Protocol should apply—at least in some of its sections—to all military bodies of an integrated character. It might be possible to introduce at the end of the Protocol a provision laying down that a specific number of its Articles applied to Allied military bodies.

26. In conclusion, the Working Group:

- (9) Agreed that provisions would have to be inserted for this purpose at the end of the Protocol.

27. The Chairman later substituted a drafting which was approved by the Working Group subject to the following amendments: The Article would end as follows: “operated with funds provided under an international budget.”

28. The French Representative, in order better to define Headquarters, considered that reference should be made to establishment tables. He proposed the addition of the following: “the establishment of these Headquarters shall be laid down in an establishment table approved by the Council Deputies.”

29. The United States Representative considered that this might be outside the competence of the Council Deputies and that, in any case, this provision would entail useless and complicated administrative arrangements.

30. The Chairman proposed that the Protocol should apply in principle to certain categories of civilian components which could be defined in each case.

31. The Canadian Representative considered that, if the Protocol was to apply to all international troops, it would have to be entirely recast, and he suggested that the Protocol continue to confine itself to Headquarters proper. Several members of the Group endorsed this view.

32. After a brief discussion, the Working Group:

- (10) Agreed that the definitions in the Protocol were not in-

tended to cover air training schools or any military establishments other than military Headquarters operated with funds provided under an international budget.

33. The Italian Representative asked if the word "international" was appropriate regardless of the size of SHAPE's share in a possible budget. The SHAPE Representative stated that the budget of Supreme Headquarters included the budgets of all Headquarters subordinate to SHAPE. As an example, he mentioned decentralized commands such as those in Verona and Florence.

34. After an exchange of views, the Working Group:

- (11) Agreed that these definitions should apply to all Headquarters regardless of the share of SHAPE in the operation of their budget.

ARTICLE 2

35. The Working Group:

- (12) Adopted the drafting proposed for this Article subject to certain amendments.
- (13) Agreed that the expression "on such territory" meant "on the territory of a State which is a Party to the Protocol and situated in the North Atlantic region," in accordance with the explanation given above in this same Article.

36. The French Representative pointed out, with respect to France, that the Protocol would apply to territory outside Metropolitan France only insofar as the Agreement applied to such territories under its Article XX.

ARTICLE 3

37. A general discussion took place on the advisability of specifying whether or not civilian components could include nationals of the receiving State. This point was considered important for the application of Article VII of the Agreement.

38. The Working Group:

- (14) Agreed that this Article should be interpreted as follows: SHAPE or the sending State were responsible for acts performed by their civilian components or their employees when the legal responsibility was that of SHAPE or the sending State under the law of the receiving State.

39. The French Representative stated that he would agree that the categories of persons regarded as members of the "civilian component" should be defined by the Council Deputies. The "civilian component" would be composed of persons permanently

employed in certain categories to be decided by the Deputies. Custodial staff would not be included nor, generally speaking, any staff who might be recruited locally.

40. The SHAPE Representative pointed out that all categories of personnel employed by SHAPE were on a list approved by the Budget Committee, but that the civilian personnel recruited locally (drivers, etc.) were not included in this list.

41. In reply to an objection raised by the SHAPE Representative regarding the British canteen, the Chairman said he would prefer not to discuss the application of the Agreement to the canteen service, since his Government was at present studying the question of the application to canteens of the Agreement on the Status of the Armed Forces.

42. Even if nationals of his own State were left out of account, the French Representative stated that his Government would not agree to extend the provisions of the Protocol to all members of the civilian component. He pointed out that when the Agreement was in course of preparation, certain personnel had been excluded from the definition of civilian component, and his Government could not here accept a more comprehensive formula. He considered that one of the two solutions proposed should be adopted: either the categories of personnel should be approved by the North Atlantic Council, or reference should be made to establishment lists approved by the Council. The first alternative would be preferable, for the second did not distinguish between specialists and non-specialist personnel.

43. The Chairman proposed that the Protocol should be so worded as to apply to every member of a "civilian component" accompanying a force under the terms of the Agreement and employed by a Headquarters, or to categories of personnel employed directly by the Headquarters which would be defined by the Council Deputies.

ARTICLE 4

44. The French Representative proposed that the word "criminelle" in subparagraph (a) of the French text should be replaced by the word "pénale." Moreover, he thought that, in the event of difficulty in designating the sending State to which the individual belonged, SHAPE should be given a secondary responsibility. SHAPE did not wish to provide for a staff department to investigate the files of such cases, and an appeal against a SHAPE decision might come to nothing.

45. The Working Group:

(15) Agreed that a more satisfactory draft of paragraph (a)

should subsequently be considered, taking into account the comments of the French Representative.

- (16) Subsequently accepted the wording proposed by the Chairman.

ARTICLE 5

46. The French Representative proposed that this Article should include mention of a photograph. This proposal was adopted.

47. With respect to dependents, the SHAPE Representative pointed out that they would be in possession of their passport and a dependent's card issued by SHAPE.

ARTICLE 8

48. In accordance with a proposal by the Netherlands Representative, the Working Group:

- (17) Agreed that the following clause should be deleted from the beginning of the Article: "So far as is necessary for the fulfilment of its functions."

ARTICLE 10

49. The Belgian Representative said that he would prefer paragraph 2 of this Article to read as follows: "The Parties to this Protocol shall facilitate, insofar as practicable."

50. The United States Representative thought, from his instructions, that this restriction might make it impossible for him to accept the provision in question.

51. The SHAPE Representative confirmed that, from SHAPE's point of view, this new restriction would rob the text of all its substance, and he could give the assurance that the adjustments involved in this paragraph would be insignificant. He inquired whether there were any other provisions in the Protocol or in the Agreement which prevented SHAPE funds from being considered as funds of the same nature as funds of the civilian Organization.

52. Summing up, the Chairman pointed out that there were three possible solutions:

- (a) Adopt the Article as it appeared in the French draft;
- (b) Adopt the same Article amended in accordance with the proposal of the Belgian Representative;
- (c) The application of Article 8 of the Civil Status Agreement.

53. The French Representative said that he could not agree to apply to SHAPE the text of Article 8 of the Agreement on the Status of NATO Civilian Staff.

54. The Netherlands Representative proposed that this Article should be redrafted to provide that the Parties to this Protocol should, so far as they could, give effect to any reasonable request by Supreme Headquarters for transfers of funds. The Chairman gave it as his opinion that the word "facilitate" did not require the Parties to do anything more than they found practicable having regard to all the circumstances.

55. The Italian Representative referred to the reservations which he had previously made in the event of the transfer of funds to persons residing in Italy. The transfers should be made in currency acceptable to the Italian Government. In addition, such transfers should always be made with due regard to Italian legislation.

56. The United States Representative considered that it was essential to ensure that national financial regulations did not have the effect of paralyzing the operations of military Headquarters.

57. In conclusion to this discussion, the Working Group:

(18) Provisionally agreed to retain the text as it stood.

(19) Invited Governments to reconsider the text in question in the light of the above discussion.

FORMER ARTICLE 11 of D-D(51) 300 (Revise)

58. Returning to the question of immunities, the French Representative said that the French Government was submitting a new proposal, in the light of the restrictions which appeared to be necessary; immunities would be restricted to those of the Supreme Commander, and paragraphs (a), (b), (c), (d) and (e) would be applied to the Commanders-in-Chief directly subordinate to the Supreme Commander. He thought that it was reasonable to expect that the immunities accepted by one country would be equally acceptable to the others.

59. The Italian Representative pointed out that immunities and facilities accorded in respect of the personal baggage of diplomatic personnel were accorded purely for reasons of courtesy; he could not approve a text which would here accord immunities which were greater than those accorded to diplomats. On the other hand, he entirely approved of according such immunities implicitly to the Commanders-in-Chief and the commanders directly subordinate to the Supreme Commander.

60. The SHAPE Representative found the new French proposal quite satisfactory. He would like to extend it also to the Chief of Staff, General Gruenther.

61. Speaking as the United Kingdom Representative, the Chair-

man stated that this involved a question of principle, and he did not know whether his Government would be prepared to accord these immunities to a new class of persons. He would ask for instructions on this point.

62. The Canadian Representative said that his Government would not be prepared to table new legislative measures to this effect.

63. A number of Representatives agreed with the Norwegian Representative that it would be preferable to deal with the question of these immunities in the bilateral agreements.

64. The Belgian Representative had no objection to raise in connection with the privileges and immunities in question.

65. The Working Group:

(20) Recognized that it could not reach agreement on this point.

(21) Agreed that this question should be submitted to the various Governments for closer consideration.

IV. Discussion of the Military Postal Service.

66. The Chairman reminded the members of the Working Group that, under United Kingdom law, only the Postmaster General could set up and operate a postal service.

67. The French Representative inquired whether there was no United States or Canadian post office in Great Britain.

68. The Chairman replied that there was in fact a United States military post office which had continued to operate since the last war, but it was an exceptional case. It appeared that the executive authorities had exceeded their powers in permitting this postal service to be established, and no additional exception could be made without introducing new legislation.

69. The French Representative said that there were also some United States post offices in France which operated under an agreement concluded in the immediate postwar period. There was also a British military post office which was operating outside any agreement. For this reason the United Kingdom and France should each seek to resolve this irregular situation. A solution might be found in the form of integrated post offices attached to Headquarters. It remained to be seen whether a practical formula could be found to provide for the operation of such post offices.

70. Mr. Ridge, the United Kingdom technical expert, said that the idea of an integrated post office was quite new to him. Up to the present, military post offices had only operated in wartime and for each national force, in order to forward correspondence between the soldiers and their families at the national postal rates.

That was nothing more than a normal development arising out of wartime conditions.

71. United Kingdom legislation was such that the establishment and operation of a post office remained a royal monopoly, and it would be very difficult to change this position in peacetime. For this reason he could not easily contemplate the possibility of a force establishing its own military post office, and it seemed to him almost impossible to conceive of a solution which would meet every requirement of all the different countries with each force operating its own separate post office.

72. The idea of an integrated post office would enable the various countries to move away from their inflexible standpoint in this connection and to make mutual concessions on various points. But a way would have to be found to overcome the administrative difficulties raised by the variety of national regulations which such a post office would have to observe.

73. This possibility raised two serious problems. The first was which stamps would be used, and the second, what kind of financial arrangements would have to be laid down in view of the different postage rates which would be granted to military personnel.

74. At the close of this discussion, the Working Group:

(22) Agreed that France should take appropriate measures to this effect in its bilateral agreement with SHAPE.

(23) Noted that such measures could, where appropriate, be taken as a model for other bilateral agreements.

75. The French Representative expressed the wish that this discussion should be resumed at a future meeting. He still considered that the general provisions of this military postal service should be included in the Protocol. There were, in fact, only two possibilities: either the national military post office, or an integrated international post office. It appeared to him, from what the United Kingdom expert had said, that the former possibility had been rejected and consequently there remained the proposal put forward by the French Government.

76. The Chairman added that the United Kingdom would consider the possibility of introducing new legislation to enable each force to set up its own postal service. He said that it would be possible to return to this question before approving the final text of the Protocol.

77. Returning to this question at a later stage, the Chairman said that the Working Group did not seem to be prepared to bring this question before the Council Deputies.

78. The French Representative pointed out that he had proposed

that consideration of the question should be continued, and that it should be examined from the technical point of view in order to explore any difficulties in the way of its realization.

79. Since the majority of Representatives of the Working Group did not think it advisable to consider setting up another technical committee to examine this question, the Chairman suggested that the French Government should submit a draft proposal. In his opinion, this would be the best procedure.

80. The French Representative remarked that the Working Group had recognized that it would be difficult to operate national post offices as effectively as integrated post offices.

81. In conclusion to this discussion, the Working Group:

- (24) Agreed that the difficulties encountered in this connection should be mentioned in the report to the Council Deputies.
- (25) Invited the French Delegation to raise this question when the Protocol came up for consideration by the Council Deputies.

MS-R(52) 4

Summary Record of a Meeting of the Working Group on Status, 23 January 1952

I. Consideration of Draft Agreement between the French Government and SHAPE.¹

1. The Chairman thought that it would be advisable to run through the document as a whole to see whether the reference to SHAPE also applied to Allied Headquarters.

2. The United States Representative said that it would be clearer, when reference was made to France, to know whether the reference also applied to French North Africa or only to Metropolitan France.

3. The French Representative pointed out that in virtue of Article XX of the Agreement, only Metropolitan France was concerned.

ARTICLE 1

4. The Chairman suggested adding after the word "established" in (b) and [after the word] "provide" in (d) the words "in France or on French territory."

¹ Reference: D-D(51) 301(R) (3 January 1952).

ARTICLE 2

5. The Chairman suggested deleting the word "its" in the second line, which would thus read "SHAPE and subordinate Headquarters."

ARTICLE 3

6. Some members of the Group asked why it was laid down in the second sentence of this Article that the French Government must give prior approval to any alterations in the strength of complete units. They thought that this was stretching rather far the prerogatives of the receiving State.

7. In reply, the French Representative explained that this sentence was the result of a compromise with SHAPE. He quoted as an example a small town where a HQ was going to be set up. It was clear that if the strength of such a HQ was to be doubled, the French Government might have good reasons to object to such an increase in strength in a town where no provision was made for it. He pointed out that it was, above all, alterations in the direction of increases that mattered.

8. The Working Group:

- (1) Agreed to interpret this Article as covering substantial increases in the strength of HQ, which should not be decided on without prior approval of the French Government.

ARTICLE 5

9. Some members of the Group pointed out that SHAPE should be able to put out tenders in connection with its construction work to firms outside France, which might prove more economical.

10. The Chairman proposed the addition of a new sentence to the effect that the provisions of this Article were without prejudice to the right to put out tenders for construction work or the provision of services connected with such work to firms outside France belonging to countries members of the North Atlantic Treaty Organization.

11. The United States Representative suggested modifying the opening sentence of Article 5 as follows: "At the request of SHAPE, the requirements of Allied Headquarters . . ."

12. The French Representative pointed out that Article 5 had been drafted after careful examination by the French services and by SHAPE. He thought it would be difficult to make any modification to it.

13. The SHAPE Representative said that SHAPE did not wish

this provision to be compulsory. At the same time, he felt that the Agreement had operated satisfactorily so far, thanks to the good will displayed on both sides. Under the terms of the Agreement, the French Government was responsible for all construction work and employed its own firms. However, SHAPE was able, by agreement with the French Government, to undertake certain construction work and alterations of minor importance.

14. The French Representative stressed the fact that his Government did not have all the advantages in this Agreement. It had accepted responsibility for the construction work and contracts because SHAPE preferred that it should be the French Government rather than itself which should act in case of disputes, which were settled in France by administrative courts.

15. He noted the wish expressed and would inform his Government of it, but he reminded the Group that the Article was part of an Agreement between the French Government and SHAPE and should be worked out between the two parties primarily concerned.

16. The Working Group:

(2) Agreed to include in its report to the Council Deputies a sentence indicating that the provisions of Article 5 would be examined again in the light of the discussion in the Council Deputies on the question of tenders being put out to firms of any NATO country in respect of construction work financed by international budgets.

17. The Canadian Representative suggested that in the first sentence of paragraph 3 of Article 5 the words "shall be" should be replaced by the words "may be," which would give the paragraph a less compulsory character.

18. The French Representative regretted that this was not possible. In fact, it was the French Government which contracted in the name of SHAPE, and it was the French Government which would have to deal with disputes.

19. The Italian Representative said that it would be wise to decide in advance what would be compulsory under this Article, since expenditure in connection with alterations to real estate might involve substantial sums, and it would be better to know the position in advance.

ARTICLE 6

20. The United States Representative suggested the following addition to Article 6: "The right of acquisition in all cases, except in so far as real property is concerned, is not subject to prior agreement by the French Government."

21. The French Representative noted this addition, which he thought might prove acceptable.

22. Some members of the Group suggested the following wording: "The right of acquisition in respect of real property provided in Article 6 of the Protocol shall be subject, in each individual case, to the prior agreement of the French Government."

ARTICLE 9

23. The United States Representative thought that it would be useful to know what was meant by the word "administrative" in the phrase "administrative civilian staff" at the end of the first paragraph of Article 9. He feared that the word was too restrictive.

24. The French Representative said that his Government would not like the requirements of SHAPE to give rise to a recruitment by SHAPE of unskilled, ordinary labor. SHAPE would therefore be entitled to recruit directly only persons who could not be found on the spot.

25. The SHAPE Representative said that the staff covered by the Article was the office staff listed in Chapter I of the Budget, as opposed to labor employed in manual work covered in Chapter II of the Budget, which would only be recruited through the local employment office. He added that any modification might upset the balance in SHAPE's establishment.

26. The French Representative suggested using the words "civilian component" instead of "administrative staff."

ARTICLE 10

27. In reply to an observation by the United States Representative, the French Representative pointed out that Article 10 should read "arising out of the application of Articles 6 and 8 above."

ARTICLE 12

28. The SHAPE Representative pointed out that, if the former Article 12 of the Protocol² was deleted, it would be necessary to include in the bilateral Agreement an Article covering this question.

29. The French Representative thought that it would be necessary to include an Article authorizing SHAPE to open an Allied Military Post Office.

² Article 12 of D-D(51) 300(R) (3 January 1951).

ARTICLE 13

30. The Canadian Representative thought that it would be wise to include the provisions relating to the installation and use of military radio and radar stations (the first two paragraphs of Article 13) in the general Protocol. The French Representative saw no objection to this view, with which SHAPE was also in agreement.

31. The Chairman, as United Kingdom Representative, doubted whether his Government was ready to agree to the inclusion of these provisions in the Protocol. He would obtain instructions on this point.

32. The United States Representative suggested replacing the words "in peacetime" by the words "in the normal conditions."

ARTICLE 14

33. The SHAPE Representative reserved his position on this Article. The Chairman suggested that the question be raised again by the SHAPE Representative when the draft Agreement was submitted to the Council Deputies.

ARTICLE 15

34. The United States Representative thought that this Article should be deleted, in view of the provisions of paragraph 4 of Article 11 of the Agreement. The Chairman suggested that the point be left for the French Government and SHAPE to consider.

35. The SHAPE Representative pointed out that paragraph 4 of Article 11 of the Agreement provided "in cases where such use is permitted by the receiving State." In his opinion, the purpose of Article 15 was to give effect to this provision.

ARTICLE 16

36. The French Representative said that agreement had not yet been reached between France and SHAPE as to paragraphs (a) and (c) of this Article.

37. The SHAPE Representative pointed out that this payment by SHAPE of a 5% tax on salaries was equivalent to a charge by the French Government on the international budget as a whole. The same remark applied to paragraph (c).

38. The French Representative replied that this was a tax peculiar to France. Under French law, a tax had to be paid on salaries, since it was easy to collect, by all employers having their head office in France. It was not a question of a tax imposed on SHAPE, but of a tax levied on all salaries paid by SHAPE. Employers who did not

have their head office in France paid a personal tax. If SHAPE did not pay these taxes, they would be demanded of the staff of SHAPE, perhaps with a certain increase, as provided by the Act. He agreed that it was difficult to draft a text in this connection which was in conformity with French legislation, but French legislation must be respected. He suggested adding the following addition to Article 16 to the effect that if the 5% payment demanded of employers was not paid, the tax in question would have to be paid by the individuals concerned.

39. The Chairman said that, to the extent that staffs not covered by Article 10 was concerned, he had no objection.

40. The United States Representative said that he could not accept Article 16, which did not seem practicable to him.

ARTICLE 17

41. The Canadian Representative thought it would be wise to insert the words "by France" after the word "ratification."

42. The Chairman thought that a provision would have to be drafted providing for denunciation of the Agreement.

II. Consideration of the Working Group's Report to the Council Deputies on Military Status³ and Future Procedure.

DRAFT AGREEMENT BETWEEN FRANCE AND SHAPE⁴

43. The Chairman suggested that the report to the Council Deputies should refer to the fact that the Working Group had made a number of observations during its examination of the draft Agreement between the French Government and SHAPE, and that the Council Deputies should be requested to invite the French Government and SHAPE to examine the Agreement again in the light of those observations. The bilateral Agreement would not therefore be concluded until this revision had taken place.

44. The Norwegian Representative thought that it was important for the Agreement to be concluded as soon as possible, without awaiting final approval by the Council Deputies. A bilateral Agreement of this kind would be very valuable as a precedent for other NATO countries.

45. The French Representative pointed out that the role of the Working Group should be limited to making comments, without pre-

³ MS-D(52) 4 (21 January 1952), which has been omitted since it is substantially the same as the first part of D-D(52) 24 (24 January 1952).

⁴ D-D(51) 301(R) (3 January 1952).

senting recommendations. The problems involved differed widely from one country to another. He gave as an example the provisions of Article 5 of the bilateral Agreement.

46. The Chairman thought that it was necessary to protect the interests of SHAPE, which was an international body operating in accordance with principles laid down by the North Atlantic Council or its subordinate agencies. He did not think it necessary to ask the Council Deputies to approve the document, but if SHAPE was not satisfied on any points it was entitled to ask that such points be examined by the Council Deputies or their Working Groups. Finally, he thought that the report should request the French Government and SHAPE to communicate the revised text to the Council Deputies for information.

47. The Working Group:

- (3) Agreed on the following procedure: Bilateral Agreements should be sent to the Council Deputies, who would limit themselves to taking note of them unless they had any comments to make.
- (4) Agreed to include in the report the observations made by certain members of the Group with regard to Articles 15 and 16.⁵

REVISED DRAFT PROTOCOL ⁶

48. The Working Group:

- (5) Agreed to recommend to the Council Deputies to refer the above text to member Governments, requesting them to submit their observations within the following three weeks.
- (6) Agreed to meet again in five weeks' time to re-examine the revised Protocol, together with any observations made by member Governments.

D-R(52) 9(F)

Summary Record of a Meeting of the Council Deputies, 30 January 1952

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IV. Agreement on the Status of NATO Forces.

⁵ The report referred to is contained in D-D(52) 24 (24 January 1952).

⁶ D-D(52) 27 (24 January 1952).

(ii) Resolution on Implementation of Article VIII.

37. There had been circulated for adoption by the Council Deputies a draft Resolution¹ setting forth certain administrative understandings concerning the application of Article VIII of the Agreement.

38. The Secretary of the Working Group pointed out that these were merely administrative arrangements which did not modify the Agreement itself. It was desirable that the Resolution should be adopted as soon as possible in order to facilitate the implementation of Article VIII in advance of ratification.

39. The Chairman, in his capacity as United States Deputy, reserved the position of the United States Government on a uniform procedure for implementing Article VIII. Legislation to implement Article VIII would be adopted in the United States when the treaty was ratified, and his Government would act in conformity with this legislation.

40. The United Kingdom Deputy pointed out that in some respects Article VIII was one of the most important articles of the Agreement. It was desirable to agree on a procedure soon in order to avoid hardship to individual claimants.

41. The countries prepared to adopt the Resolution were: Belgium, Canada, France, Norway, Portugal and the United Kingdom. The countries which had not yet instructed their delegations were: Denmark, Iceland, Italy and the Netherlands.

42. The Chairman pointed out that this question had been under consideration for some time, and he hoped that those members who had not yet received instructions would shortly be able to give their Governments' views.

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D-R(52) 12

Summary Record of a Meeting of the Council Deputies, 6 February 1952

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IV. Implementation of Article VIII of the Forces Agreement.^{1a}

9. Speaking as United States Deputy, the Chairman stated that his Government agreed in principle that a uniform procedure for imple-

¹ D-D(52) 26 (23 January 1952).

^{1a} Previous reference: D-R(52) 9(F), par. 37-42 (30 January 1952); See D-D(52) 26 (23 January 1952).

menting Article VIII was desirable, but it could not approve the Resolution until legislation, which would be enacted when the treaty was ratified, had become law.

10. The Council Deputies:

Agreed to defer discussion until the delegations which were still uninstructed had received their instructions.

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MS-R(52) 5

Summary Record of a Meeting of the Working Group on Status, 24, 25 and 26 March 1952

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III. Consideration of Draft Protocol on the Status of Allied Headquarters.¹

8. The Working Group examined the text of the draft Protocol, together with a number of amendments proposed by the various delegations.² In the course of discussion the following points were raised.

9. It was agreed that the words "North Atlantic Treaty area" in the Preamble and in Article 2 should be understood as covering the area defined in Article 6 of the North Atlantic Treaty, as amended by the Protocol on the Accession of Greece and Turkey.

ARTICLE 1

10. The Working Group approved the text of Article 1, with some amendments.

11. The Chairman, speaking as the United Kingdom Representative, said that his Government's understanding was that there was no intention that the definitions in this Article should cover the European Defense Community or any EDC Headquarters. This understanding was confirmed by the other members of the Working Group.

¹ Reference: D-D(52) 27 (24 January 1952).

² For comments and amendments submitted by various delegations and by SHAPE, see MS-D(52) 5 (14 March 1952).

ARTICLE 3

12. M. Le Bigot (SHAPE) said that he wished to reserve the position of SHAPE regarding subparagraph (b) of Article 3. The definition of "civilian component" in this subparagraph meant that after the transfer of NATO to Paris there would be a serious discrepancy in the position of civilian personnel in the employ of NATO and civilian personnel employed directly by Allied Headquarters. SHAPE could not accept such a discrepancy.

13. The Working Group felt that such a distinction was inevitable, since the original Agreement on the Status of Forces also limited the definition of "civilian component"; the Protocol could only extend the application of this Agreement and not modify it.

It therefore adopted, with some amendments, the text proposed by the United States for this subparagraph.

ARTICLE 4(a)

14. The French Representative withdrew the proposed French amendment on the understanding that it was generally accepted by the Working Group that in the case of employees of Allied Headquarters who were not employees of the armed forces of a Party to the Agreement, the receiving State had jurisdiction with regard to all offenses committed on its territory which were covered by its legislation. It was agreed that the phrase "not members of the armed forces of a Party to the Agreement" meant not members of national forces or their civilian components and that the French position applied to civilians directly employed by an Allied Headquarters and not to those civilians who make up civilian components of national forces which might be attached to such Headquarters.

ARTICLE 4(d)

15. The Canadian Representative raised the question of the reconciliation of this subparagraph with paragraphs 2(b) and 8 of Article VIII of the Agreement. It was agreed that a proviso be inserted to the effect that Allied Headquarters, as well as the original sending State, should have a voice in the appointment of the arbitrator, and that the Chairman should draft such a clause for consideration by the Working Group at a later meeting.

ARTICLE 5

16. The Working Group agreed on the advisability of communicating to the receiving State details of the form of identity cards issued

by the Allied Headquarters and thought that the Allied Headquarters in question should send a specimen of the identity card to the authorities of the receiving State.

ARTICLE 6

17. The Working Group accepted an amendment proposed by the United States Delegation, making the sense of the Article permissive. As regards protection of the property and personnel of Allied Headquarters, the understanding of the Working Group was that the provisions of paragraph 11 of Article VII of the Agreement on the Status of Forces applied to Allied Headquarters.

ARTICLE 7, par. 1

18. The French Representative agreed to withdraw the French amendment, in view of the adoption of the United States redraft of Article 3(b).

19. Commander Hare (SHAPE) said that he must reserve SHAPE's position regarding this paragraph. Under its provisions, members of a civilian component who were nationals of the receiving State would be liable to taxation by the receiving State. SHAPE would have difficulty in accepting this discrepancy of two categories of civilian personnel doing exactly the same work.

20. The Canadian, Netherlands and United States Representatives thought that it would be extremely difficult for their respective Parliaments to agree to exemption of their nationals from taxation in their own countries.

21. Commander Hare had two suggestions to make as to methods of avoiding the discrepancy:

- (a) Members of a civilian component might be excluded from the privilege of exemption from taxation, except insofar as this privilege was written into their terms of contract;
- (b) *All* civilian personnel might be considered as being employed directly by NATO, the necessary personnel being then assigned to work at Allied Headquarters.

He added that, in SHAPE's view, the probable result of the liability to taxation of civilian components would be a demand for an increase in the SHAPE international budget.

22. The Working Group accepted the French proposal to add a new subparagraph (2) to Article 7.

ARTICLE 8 (10) ³

23. The Chairman felt that the addition proposed by France, "so far as necessary for the fulfilment of its task," might give rise to difficulties. In view of the need for giving Supreme Headquarters the capacity to conclude contracts with third parties, and for the protection of these third parties, he thought that these words should be omitted.

24. The Italian, Netherlands, Norwegian and United States Representatives also thought it preferable to omit these words.

25. The French Representative agreed to accept the original text, but wished it to be placed on record that the French Government's understanding was that this Article only applied insofar as the exercise of such capacity by Supreme Headquarters was necessary for the fulfilment of its task.

26. The United States Representative said that his Government felt that Supreme Headquarters could not be limited by the receiving State in the exercise of functions which it considered necessary. He therefore wished to omit the second sentence of Article 8. However, in view of the general feeling of the Working Group, he agreed to accept the inclusion of this sentence subject to reference to his Government.

27. It was the understanding of the Working Group that a subordinate Allied Headquarters could act for a Supreme Headquarters under this Article.

ARTICLE 9(11)

28. The Working Group approved an addition to paragraph 2 of this Article on the lines of the Netherlands proposal.

ARTICLE 10(12), par. 2

29. The Chairman noted that a number of amendments had been proposed with a view to clarifying the interpretation of the words "shall facilitate." The Italian and Netherlands Representatives in particular wished to make it clear that their Governments could accept no obligation to transfer funds under this Article.

30. M. Le Bigot (SHAPE) said that SHAPE's view was that there should be no difference between the facilities agreed for civil

³ The number in parentheses here, as in the headings which follow, refers to the renumbering of these Articles in MS-D(52) 6 (27 March 1952). The text under consideration, however, is that contained in D-D(52) 27 (24 January 1952).

and military international budgets. SHAPE was reluctant to accept a limitation of its freedom of operation. He pointed out that the addition to the paragraph proposed by the United States, "when necessary to meet the requirements of an Allied Headquarters," already constituted a safeguard regarding such transfers. He agreed that no difficulties had arisen so far in practice; but he wished to safeguard the position of Allied Headquarters in the future.

31. After further discussion, the Italian Representative agreed to withdraw the Italian proposal for the addition of a new paragraph (3), on condition that it be placed on record that the Italian Government's understanding of paragraph 2 was as follows:

Such undertaking to facilitate the transfer or conversion of Supreme Headquarters funds does not imply any strict obligation for the Governments to perform such transfer or conversion, but only to facilitate these operations.

The Italian Government would, however, do its best to assist Allied Headquarters in the matter of such transfers. The Working Group generally confirmed this interpretation.

32. The SHAPE Representative stated that in his view the insertion in the Summary Record of the interpretation placed by the Italian Government on paragraph 2 of Article 10 greatly reduced the value of this Article.

33. The United States Representative said that he could accept the Italian interpretation of paragraph 2, if the following United States amendment to paragraph 2 was accepted also: "Each Party . . . the conversion of that Party's currency."

34. The general feeling of the Working Group was that the original text, "The Parties . . . any currency," was preferable.

35. The United States Representative agreed to refer the matter again to his Government, and asked that the other members of the Working Group, on their side, reconsider it. In view, however, of the text preferred by the majority of the Working Group, he wished to make the following reservations on behalf of his Government:

- (a) The United States Government did not see in the wording of Article 10 any obligation to effect the conversion of any currency into the currency of a country which was not a member of the EPU.
- (b) The United States Government could not accept any obligation under this Article to purchase European currency for dollars. The United States contributions would in

substantial part be made from counterpart funds or other local currency held by or available to the United States.

36. The Canadian Representative asked whether the SHAPE Representative could give an assurance that SHAPE had no intention of converting into the currency of any country an amount superior to its original contribution.

37. The SHAPE Representative said that he could give this assurance as far as conversion into dollars was concerned. He added an assurance that SHAPE would not effect any conversions which were not essential for the operation of Allied Headquarters; SHAPE's only concern was the proper functioning of the Headquarters.

ARTICLE 12 (14)

38. The Working Group examined a draft put forward by the United States Representative of an additional paragraph to be included under Article 12, providing for the extension of the Protocol to cover personnel of the EDC forces who might be attached to Allied Headquarters in the near future.

39. After some discussion, the Working Group agreed to insert this paragraph provisionally in the draft Protocol for consideration by Governments. It was understood that, if and when the EDC came into existence, new provisions would be necessary to determine the possible application of the Agreement on the Status of Forces to cover EDC forces.

PROPOSED NEW ARTICLE

(RELIEF OF ALLIED HEADQUARTERS FROM TAXES)

40. The United States Representative said that his Government attached the greatest importance to the inclusion of the provisions of this new Article in the Protocol. He explained that all United States contributions to international funds were based on the Mutual Security Act which provided that none of the funds so contributed be applied to the payment of taxes. It was a condition of United States acceptance of the Protocol in any form that it should include a statement of agreement on the general principle that Allied Headquarters be relieved from taxes.

41. In reply to a question from the Canadian Representative, the United States Representative stated that his Government was taking steps to relieve SACLANT from taxation under United States law.

42. The French Representative said that his Government was not very favorable to the insertion of an undertaking of such a general nature in the Protocol. It was prepared to accept the inclusion of an

Article on the lines of Article 10 of the Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff, as suggested by SHAPE in document D-D(52) 2.

43. The Norwegian Representative said that he had no definite instructions on this matter. His Government did not question the soundness of the principle, but certain technical difficulties were involved.

44. The Canadian Representative hoped that his Government could accept the principle. He added that if an Allied Headquarters were set up in Canada, the Canadian Government would be faced with the problem of getting federal, provincial and municipal taxes waived. This, of course, would raise some considerable legislative issues.

45. Lt. Colonel Rimbout (SHAPE) said that SHAPE's view was that Allied Headquarters should not be subject to a régime less favorable than that applied to the armed forces of any Party to the North Atlantic Treaty. He pointed out that SHAPE was on the point of embarking on considerable expenditure for construction purposes, the taxes on which amounted to about one billion French francs. It was important therefore that a solution should be reached rapidly, and that any agreement reached should be retroactive.

46. After further discussion, the Working Group agreed that a text on the lines proposed by the United States Representative, embodying statement of the general principle, be inserted provisionally in the draft Protocol as a new Article 8 for reference to Governments. It was agreed that a definition of the term "taxes," in this connection, should also be included.

47. The French Representative said that he must reserve his position. His Government would prefer to include a paragraph on the lines of Article 10 of the Agreement on Civilian Status. However, in view of the general feeling of the Working Group, he was prepared to agree to provisional inclusion of the text proposed by the United States Representative for submission to Governments.

48. With regard to paragraph (a) of the original United States proposal, the understanding of the Working Group was that, for the purpose of paragraph 4 of Article XI of the Agreement on the Status of Forces, Allied Headquarters should be considered as the sending State. It was agreed that a clause be inserted to cover this point. On this understanding, the United States Representative agreed that the proposed paragraph (a) be omitted.

49. The Working Group felt that paragraph (b) of the original United States proposal was unnecessary, since it was covered by the

statement of the general principle. On this understanding, the United States Representative agreed, subject to reference to his Government, that paragraph (b) be omitted.

DISPOSAL OF ASSETS FINANCED OUT OF ALLIED HEADQUARTERS BUDGETS

50. The Working Group then discussed the proposal of the United States Delegation for the inclusion in the Protocol of a provision on the lines of the Council Deputies' Resolution ⁴ regarding disposal of assets financed out of Allied Headquarters budgets.

51. The United States Representative explained that his Government wished to include this provision in the Protocol in order to give it treaty force; he thought that the general principle should be applied automatically to all Headquarters and not renegotiated in each case.

52. The French Representative also thought it desirable that this provision should have treaty force; the Resolution of the Council Deputies was satisfactory as the statement of a principle, but difficulties might arise in application unless it was written into an international treaty.

53. The Norwegian Representative thought that his Government would have no objection to its inclusion in the Protocol.

54. The Italian Representative said his Government had had some doubts about the formula adopted by the Council Deputies. He could agree to provisional inclusion, but must refer to his Government for definite instructions.

55. The Working Group agreed to include provisionally in the draft Protocol a new Article 9 on the lines of the Council Deputies' Resolution.

DIPLOMATIC PRIVILEGES AND IMMUNITIES

56. The Working Group again considered the United States proposal to include provisions for the granting of diplomatic privileges and immunities to Supreme Commanders and certain other officers of Allied Headquarters.

57. The Chairman said that the United Kingdom Government felt strongly that the inclusion of such a provision was undesirable. It would be extremely difficult to obtain from the United Kingdom Parliament approval of a Protocol containing provisions for the extension of diplomatic privileges and immunities to a further class of persons.

⁴ D-D (51) 217 (R)

58. The Canadian Representative said that similar difficulties would arise in his country.

59. The French and Italian Representatives said that their Governments were in favor of granting certain privileges to a very limited number of persons; the categories would have to be very precisely defined.

60. The Norwegian Representative thought that the Supreme Commander of Allied Headquarters in Norway already had certain immunities. In view of the difficulty in defining categories of persons to whom such provisions should apply, he thought it preferable not to include them in the Protocol.

61. The United States Representative said that he would report to his Government that the position of the various Governments was unchanged.

MILITARY POST OFFICES

62. The Working Group considered a United States proposal for the inclusion of a paragraph regarding the establishment of military postal services for the use of Allied Headquarters.

63. The French Representative said that he could not accept the formula proposed by the United States. His Government had proposed negotiation of an international agreement to cover this question and thought that in the meantime it should be dealt with by bilateral negotiation.

64. Several other members of the Working Group agreed that this was a matter for bilateral negotiation.

65. The Working Group agreed to consider the question further at its next meeting.

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MS-R(52) 6

Summary Record of the Meetings of the Working Group on Status, 2 and 3 May 1952

I. Consideration of Draft Protocol on the Status of Allied Headquarters.¹

1. The Working Group considered the draft of the Protocol and approved the text of the Preamble and of Articles 1 to 6 and 9 to 16, with some drafting amendments. Points raised in the course of discussion are recorded below.

¹ Reference: MS-D(52) 6 (27 March 1952).

ARTICLE 3, (b)

2. It was the understanding of the Working Group that the term "civilian component" should not include employees who were nationals of the receiving State. It was also the understanding of the Working Group that the provisions of the Protocol would apply to personnel covered by the Protocol, also when on duty in member countries other than where their Headquarters is located.

ARTICLE 4

3. In connection with the preamble to Article 4, it was the understanding of the Working Group that for the purpose of Article IV of the Agreement on the Status of Forces, an Allied Headquarters should be considered as a subdivision of Supreme Headquarters.

4. The Working Group agreed on the insertion of a new Article² defining the application to Allied Headquarters of paragraphs 1, 2, 3 and 5 of Article VIII of the Agreement on the Status of Forces.

5. The majority of the Working Group agreed on the insertion of a new Article³ defining the application of paragraphs 2, 3, 4 and 8 of Article IX and paragraph 4 of Article XI of the Agreement. The Norwegian Representative, however, wished to reserve his position for the moment.

ARTICLE 7 (9)⁴

6. The Working Group considered a redraft of this Article and agreed provisionally on the text of paragraph 1.

ARTICLE 7 (9), par. 2

7. Several members of the Working Group expressed the view that the inclusion in the Protocol of a provision as envisaged under paragraph 2 would be likely to cause difficulty in the acceptance of the Protocol by their national Governments. It was agreed, however, that the members of the Working Group should submit to their Governments the new draft of this paragraph which is based on Article 19 of the Civilian Status Agreement.

² Article 7, MS-D(52) 6(R) (5 May 1952).

³ Article 8, MS-D(52) 6(R) (5 May 1952).

⁴ The number in parentheses here, as in the headings which follow, refers to the renumbering of these Articles in MS-D(52) 6(R) (5 May 1952), due to the insertion of the two new Articles referred to in par. 4-5, *supra*. The text under consideration, however, remains that of MS-D(52) 6 (27 March 1952).

ARTICLE 8 (10)

8. The French and United States Delegations tabled the interpretations of their respective Governments with regard to Article 10 as follows:

French Interpretation

- (a) This Article refers to expenditure by an Allied Headquarters in the interest of common defense from funds under its international budget.
- (b) "So far as practicable" means so far as the legislation of the receiving State allows.
- (a) "So far as practicable" means within the framework of the law in each host country. Since in this framework the United States has obtained the necessary relief, it is assumed that Headquarters will obtain similar relief.
- (b) The language of the Article is intended to include, but not necessarily be limited to
 - (i) relief from taxes on income and property of a Headquarters, and
 - (ii) relief from taxes on expenditures of its income by and on behalf of a Headquarters in respect of its establishment, construction, maintenance and operation.

The United States Representative added that his Government was taking measures to make such relief as was envisaged in the United States interpretation applicable to SACLANT.

9. Other members of the Working Group felt it necessary to reserve their position with regard to these interpretations, pending consultation with their Governments. The following comments were made.

10. The French Representative stated that

- (a) with regard to paragraph (a) of the United States interpretation, his Government was in agreement.
- (b) with regard to paragraph (b), the French Government could not accept this interpretation. Its view was that Article 10 of the Protocol was a statement of principle, and that specific points such as those mentioned in the United States interpretation were a matter for negotiation between Allied Headquarters and the receiving State. The French Government could not accept in advance an interpretation which might prejudice these negotiations.

11. The Chairman, speaking as the United Kingdom Representative, said that with regard to paragraph (a) of the United States interpretation, and paragraph (b) of the French interpretation, the

United Kingdom understanding was that the words "so far as practicable" meant that the receiving State would not be required to go further than was permitted under already existing legislation, but that within these limits account must also be taken of what was practicable.

12. The Canadian Representative said that his Government had been in negotiation with the French Government regarding the establishment of bases and installations in France; it had been agreed that Canada should receive treatment in this respect no less favorable than that accorded to any other country. The Canadian Government assumed that no less favorable treatment would be accorded to SHAPE.

13. The SHAPE Representative said that SHAPE hoped to obtain from the receiving State no less favorable treatment than that accorded under the arrangement between the United States and French Governments, or under any future arrangements which might be made on more favorable terms. He stressed once more the urgency of reaching a decision on this question.

ARTICLE 9 (11), par. (a)

14. The Chairman, speaking as the United Kingdom Representative, proposed the insertion of the words "agreed between the receiving State and the Allied Headquarters," in order to give the receiving State some measure of control to ensure that local regulations were not infringed, and in particular to allow it to make arrangements to collect taxes and duties which would fall due in cases where goods or property had been imported or used by Allied Headquarters and subsequently disposed of to a third party.

In the light of the views expressed by the Working Group in the ensuing discussion, however, the Chairman agreed to withdraw this proposal, on the general understanding that these considerations would be taken into account by the Council when dealing with cases of this kind.

ARTICLE 9 (11), par. (b)

15. The Working Group agreed generally that paragraph (b) should refer only to "fixed installations" and not to movable property, such as vehicles, prefabricated buildings and equipment which was movable.

16. With regard to the words, "any increase or less in the value of the property . . . shall be determined by the North Atlantic Council," it was the understanding of the Working Group that the law of the receiving State would be taken into account in determining the increase or loss.

ARTICLE 11 (13), par. 1

17. It was the understanding of the Working Group that the words "subject to the provisions of Article VIII of the Agreement" were included to ensure that nothing in Article 13 of the Protocol might prejudice the provisions of Article VIII of the Agreement. In this connection, it was pointed out that Article VIII was intended to apply to claims arising out of torts, while Article 13 was intended to deal with contractual claims.

It was the understanding of the Working Group that the phrase beginning "except for . . ." created no right of seizure not provided in the Agreement, and that the intention of the phrase was generally to provide that Allied Headquarters should be treated exactly as a sending State in these questions.

ARTICLE 15 (17)

18. It was the general opinion that where the term "Contracting Party" in the Agreement on the Status of Forces meant the sending State, it should be interpreted as applying also to Allied Headquarters.

19. The Working Group:

- (1) Agreed to recommend to the Council, when submitting its report, that on signature of the Protocol, the Council should invite all Parties to give the fullest possible effect to its provisions pending ratification.

ADDITIONAL PRIVILEGES AND IMMUNITIES

20. The United States Representative said that his Government accepted with regret the deletion from the Protocol of the provision for the granting of certain additional personal privileges and immunities to certain senior officers of Allied Headquarters. The United States Government wished to put on record its view that there was a practical analogy between the needs of the highest Allied Commander and those recognized by the Civilian Status Agreement.

MILITARY POST OFFICE PRIVILEGES

21. The United States Representative said that his Government still held the view that some provision should be included in the Protocol to cover this point.

22. The members of the Working Group agreed to submit their Governments' comments on the revised text of the Protocol to the Secretariat. If necessary, a further meeting would be called for 26 May.

II. Agreement on the Status of Forces (Marking of Service Vehicles: Memorandum by the Italian Delegation).⁵

23. The Working Group considered a memorandum by the Italian Delegation, recommending that registration numbers and nationality marks of service motor vehicles be communicated as from now by Allied Headquarters and by the sending States to the receiving States.

23a. The Working Group:

- (2) Endorsed this recommendation and asked the Secretariat to bring the matter to the notice of national Governments and the Standing Group.

III. Implementation of the Status of Forces Agreement.

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26. With reference to paragraph 5 of Article IX, the general understanding of the Working Group was that the receiving State would provide such facilities where necessary, on the same terms as for its own comparable personnel. This paragraph should, however, not be interpreted as requiring the receiving State to increase its medical services.

MS-R(52) 7

**Summary Record of a Meeting of the Working Group on Status.
4-5 June 1952**

I. Revised Draft of the Protocol on Headquarters.¹

1. The Working Group examined the revised draft of the Protocol on Military Headquarters and the comments made by delegations.²

2. The Working Group:

- (1) Agreed, with certain reservations, to the text of the draft Protocol on the Status of Allied Headquarters Set Up Pursuant to the North Atlantic Treaty and agreed to submit it to the Council.³

⁵ Reference: MS-D(52) 7 (24 April 1952).

¹ Reference: MS-D(52) 6(R) (5 May 1952).

² For comments by Governments and by SACLANT, see MS-D(52) 9 (24 May 1952), together with Addendum 1 (29 May 1952) and Addendum 2 (30 May 1952). The two Addenda will be found at the end of MS-D(52) 9.

³ C-M(52) 30 (7 June 1952) contains the text of the Protocol as submitted to the Council, together with a covering Report.

3. Individual points and articles were discussed, and the following proposals or interpretations adopted.

ARTICLE 1

4. The Working Group:

- (2) Agreed to delete the references to "an international budget" in view of the uncertainty about future methods of financing international Headquarters. It was the understanding of the Working Group that the Protocol would apply to the type of Headquarters presently having an international budget.

ARTICLE 3

5. The Working Group:

- (3) Decided to add the following paragraph 2 to Article 3:

An Allied Headquarters shall be considered to be a force for the purposes of Article II, paragraph 2 of Article V, paragraph 10 of Article VII, paragraphs 2, 3, 4, 7 and 8 of Article IX, and Article XIII of the Agreement.

ARTICLE 5

6. The Italian Delegate reminded the Working Group that it had previously been agreed that sending States and Allied Headquarters should supply the authorities of the receiving State with specimens of identity cards issued in accordance with paragraph 2(a) of Article III of the Agreement and Article 5 of the Protocol.

ARTICLE 6

7. This Article was deleted, since the substance was contained in the new paragraph 2 of Article 3, referred to under paragraph 5, above.

ARTICLE 7 (6)⁴

8. The Working Group:

- (4) Agreed that it was not necessary to specify in the Protocol an amount in respect of Allied Headquarters for the purpose of applying subparagraph (f) of paragraph 2 of Article VIII of the Agreement, since claims for compensation would be made in one of the currencies mentioned in that subparagraph, where amounts had been specified.

⁴ The number in parentheses here, as in the headings which follow, refers to the renumbering of these Articles in C-M(52) 30 (7 June 1952). The text under consideration, however, remains that contained in MS-D(52) 6(R) (5 May 1952).

9. The Working Group:

- (5) Agreed that the provisions of this Article did not relieve sending States of any responsibilities imposed on them by virtue of Article VIII of the Agreement.

10. The Working Group:

- (6) Accepted the interpretation by the United States Delegate to the effect that the rights and obligations of an Allied Headquarters, as laid down in Article 4 of the Protocol, included the waiving of claims for compensation, referred to in paragraph 4 of Article VIII of the Agreement, by or against a military Headquarters.

ARTICLE 8

11. The Working Group:

- (7) Agreed to delete this Article, the substance of which was contained in paragraph 2 of Article 3, referred to in paragraph 5, above.

ARTICLE 9 (7)

12. The Canadian Delegate stated that his Government disagreed with the principle of giving the civilian component or civilians of an Allied Headquarters treatment different from that granted to the military element of such Headquarters. He drew attention to the fact that when an Article similar to that of paragraph 2 of Article 9 was incorporated in the Civilian Status Agreement, it was only with reluctance that the Canadian Representative acquiesced, and that Canadian acceptance of such an Article was a matter of expediency and did not in any way imply a precedent for any arrangements regarding Canadian residents employed by an international organization. He would therefore have to reserve his Government's position on paragraph 2 of Article 9 of the draft.

13. The Chairman, speaking as the United Kingdom Delegate, said that his Government would much prefer to have Article 9 without paragraph 2. It could however reluctantly accept that paragraph if there was general support for its inclusion. If other Governments took reservations regarding this paragraph, the United Kingdom Government would have to reconsider its position.

14. The Working Group:

- (8) Decided to leave paragraph 2 in the draft text and to make a reference to the problems involved in the report to the Council.

ARTICLE 10 (8)

15. The Netherlands Delegate, supported by the Belgian Delegate, submitted the following alternative draft text of Article 10:

1. While an Allied Headquarters will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless, when such Headquarters is making important purchases of property on which such duties and taxes have been charged or are chargeable, the Parties to the present Protocol will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.
2. An Allied Headquarters shall have the right granted to a force under Article XI of the Agreement, subject to the same conditions.
3. The relief provided for by paragraphs 1 and 2 of this Article is only granted to an Allied Headquarters on account of property purchased, imported or exported for the exclusive official use of the said Headquarters as such.
4. The expression "duties and taxes" in this Article does not include charges for services rendered.

They reserved their position with regard to the text of Article 10, contained in MS-D(52) 6 (Revise).

16. The Italian Delegate stated that he was in a position to accept Article 10 in its present form, on the understanding:

- (a) that, "so far as practicable" meant "within the limits of the existing legislation";
- (b) that exemptions should apply only to expenditures made in the direct interests of common defense;
- (c) that exemption from charges for services rendered by public utilities was excluded therefrom;
- (d) that the appropriate details would be settled in the context of bilateral agreements between the relevant receiving Governments and Allied Headquarters.

17. The French Delegation stated that France would accept the present text, subject to the two following provisos:

- (a) that the expenditures in question were made in the interests of common defense and insofar as they had a direct bearing on the duties of Allied Headquarters;
- (b) that when Governments entered into negotiations with Allied Headquarters for the purpose of concluding agreements, such negotiations should interlock with negotiations

conducted with other countries and be subject to the acceptance of the same provisions by all the Parties concerned.

18. The Chairman, speaking as the United Kingdom Delegate, said that his Government was unable to accept section (b) of the United States interpretation of Article 10, as stated in MS-R(52) 6, par. 8. It felt that this was a matter to be left for bilateral negotiations.

19. The Danish Delegate stressed that the exemption from duties and taxes was only to be granted to Allied Headquarters as such, and not to its individual members.

19a. The Working Group:

(9) Confirmed this view.

20. At the request of the United States Delegate, the Working Group:

(10) Agreed that the words "charges for services rendered" in paragraph 4 of Article 10 could only mean "charges for services actually rendered."

The United States Delegate added that in his view it could extend only to services requested. Other members of the Working Group were unable to accept this interpretation on behalf of their Governments and pointed out that it would be impracticable for the parties to insist on a specific request for every service rendered.

ARTICLE 11(9)

21. The Italian Delegate said that it was his Government's view that the assets dealt with in this Article would be subject to the law of property in the country where they were located, in the absence of international agreement to the contrary.

22. The Working Group:

(11) Agreed with this view.

(12) Noted that the insertion in paragraph 6 of the words "taking into consideration any applicable law of the receiving State" did not mean that the Council would necessarily be bound by the provisions of local law.

23. The United States Delegate said, with respect to paragraph (b) of this Article, that his Government wished to have put on record the view that, in agreeing to any principle for the distribution of the increases or loss in value of land, buildings or fixed installations used by an Allied Headquarters, no precedent will be set up for similar determinations in other connections.

ARTICLES 12(10) and 13(11)

24. The Working Group considered the proposals by SACLANT for a new wording of these paragraphs. It was felt that the texts previously agreed by the Working Group were adequate.

ARTICLE 14(12)

25. The Working Group was in agreement with the Belgian Representative in assuming that any receiving State which might have difficulties in complying with requests for transfers or conversions according to paragraph 2 of Article 14 would not refuse authorization for such transfers or conversions without consulting the Headquarters concerned.

26. The Working Group:

- (13) Agreed that the subject dealt with by SACLANT in its suggested new paragraph to Article 14 might appropriately be dealt with in the Headquarters financial regulations.

II. Interpretation of the Status of Forces Agreement.

27. The Chairman, speaking as the United Kingdom Delegate, requested the Working Group to note his Government's interpretation of Article III of the Agreement, that since Article III (and in particular paragraph 5) does not apply to persons outside the definition of "civilian component" and their dependents, such persons will be subject to all the usual controls regarding immigration and period of residence.

28. The Chairman, still speaking as the United Kingdom Delegate, said with regard to Article VIII of the Agreement on Military Status, that if a claim for compensation were brought for decision before a court of the United Kingdom, it would generally, if not always, be advisable to appoint such court to act as arbitrator for the purpose of any dispute to which paragraph 8 of Article VIII applies, in order to avoid any possibility of conflict between the decision of the arbitrator and that of the court.

III. Questions of Procedure and Report to the Council.

29. The Chairman said he proposed to submit a brief report to the Council, restating the purpose of the Protocol and calling attention to the reservations made by the Canadian, Belgian and Netherlands Delegations.

30. The French Delegate mentioned the questions relating to immunities and postal services which had been held over.

31. The Chairman pointed out that there would be a paragraph in the report to the Council stating that, contrary to certain delegations, the Working Group did not regard these two points as coming within the scope of the Protocol and considered that they should be settled through bilateral negotiations.

32. The Chairman proposed, and the Working Group agreed, that the Council should be invited to adopt at the signing of the Protocol a Resolution recommending member Governments to apply the Protocol provisionally, pending its ratification.

* * * * *

V. Date of Next Meeting of the Working Group.

36. The Chairman suggested that the Working Group might have to meet again at some later date to prepare the appropriate legal instruments to implement the provisions of paragraph 2 of Article 14 of the Protocol when the EDC comes into being.

C-R(52) 14

Summary Record of a Meeting of the North Atlantic Council, 2 July 1952

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IV. Draft Protocol on the Status of Military Headquarters.¹

19. Mr. Evans, Chairman of the Working Group, said that reservations on two articles of the Protocol (Articles 7 and 8) had been made during the meetings of the Working Group. The three Delegations concerned (Canada, Belgium and the Netherlands) had been requested to ask their Governments to reconsider their position.

20. The Canadian Representative said that his Government could withdraw its reservation on Article 7, but asked that a statement on its position in connection with that Article be placed on record.²

21. The Norwegian Representative pointed out that the Canadian "Statement of Position" was difficult to distinguish from a reserva-

¹ Reference: C-M(52) 30 (7 June 1952), containing the revised draft of the Protocol and a covering Report.

² See MS-D(52) 10 (2 July 1952).

tion. He would have to report back to his Government and suggested that the whole question of Article 7 be considered again by the Working Group.

22. The Belgian Representative supported this view and suggested that fiscal experts should also be invited to consider the problem.

23. The Turkish Representative said that he must reserve his Government's position on the whole Protocol, since his Government had not had time to study it in detail.

24. The Greek Representative said that his Government had no objection to the Protocol but felt that it could not sign it since it was not a signatory of the Status of Forces Agreement, which had been signed before Greece was a member of the North Atlantic Treaty Organization. Although the Greek Government expressed its willingness to accede to the Agreement without further delay, the interpretation given by the International Staff to Article XVIII of that Agreement was that Greece could not be admitted to accession now.

25. The Netherlands Representative said that his Government had two reservations to make in connection with Article 12.³

26. The Council:

Agreed to refer the Protocol back to the Working Group, with special reference to Articles 7, 8 and 12. It was agreed that the Working Group would hold its first meeting on the following day and render an early report to the Council.

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MS-R(52) 8

Summary Record of a Meeting of the Working Group on Status, 3 July 1952

1. Draft Protocol on the Status of Allied Headquarters: Reservations of Certain Delegations regarding Articles 7, 8, 12.¹

1. The Chairman said that some delegations had reserved their position with regard to three Articles in the draft Protocol; the Council at its last meeting had therefore decided to refer the document back to the Working Group.²

³ See MS-D(52) 10 (2 July 1952).

¹ Reference: C-M(52) 30 (7 June 1952).

² See C-R(52) 14, par. 26 (2 July 1952).

ARTICLE 7

2. The Chairman said that paragraph (a) of the Canadian statement³ lent itself to two interpretations: it might read to mean that the Canadian Government wishes to emphasize their right under the provisions of Article 7 to tax Canadian nationals, provided they conclude an agreement to this effect with the Allied Headquarters concerned, or it might read to mean that the Canadian Government reserve their right to tax Canadian employees whether or not an agreement is concluded under paragraph 2 of Article 7.

3. The Canadian Delegate promised to find out which of the two interpretations reflected his Government's views. If the former interpretation were the correct one, which was generally assumed by the Working Group, he would endeavor to have the text of the Canadian statement modified to make the meaning quite clear.

4. It was the general feeling of the Working Group that the Canadian statement thus modified would be acceptable to the other member Governments.

5. The Belgian and the Netherlands Delegates said that their Governments were reluctant to accept the principle laid down in paragraph 2 of Article 7. By this provision, civilians employed at Allied Headquarters would be divided into two categories subject to different rules in respect of taxation. They suggested that the time might have come for the reconsideration by fiscal experts of the whole question of taxing internationally paid personnel, and of the possibility of introducing a scheme of international taxation as previously worked out, though not implemented, by the Brussels Organization; failing agreement on such an arrangement, it might be possible to introduce taxation either by the host Government or by the national Government concerned.

6. Summing up, the Chairman suggested that there were three courses of action:

- (a) to postpone signature of the Protocol until the question of taxation has been further studied; or
- (b) to sign the Protocol in its present form and to recommend to the Council to examine the question of taxing internationally paid personnel; or
- (c) to delete paragraph 2 of Article 7 from the Protocol.

7. Alternatives (a) and (c) were likely to meet with strong objections in view of the urgent need to define the status of Allied Headquarters and in view of the strong preference on the part of certain delegations for the provisions of paragraph 2 of Article 7.

³ MS-D(52) 10 (2 July 1952).

8. The Working Group:

- (1) Decided to defer further consideration of this point until delegations had received fresh instructions.

ARTICLE 8

9. The Belgian Delegate that the words of paragraph 1 of Article 8 should be amended to read as follows: “. . . affecting expenditure by them in the interest of common defence and for their official and exclusive benefit.”

10. The Working Group:

- (2) Accepted the amendment, subject to confirmation by Governments.

ARTICLE 12

11. The Netherlands Delegate said that his Government did not propose any modification of the text of Article 12. They were, however, at present disinclined to sign the Protocol before a satisfactory solution had been found to two questions:

- (a) an exchange rate guarantee for the funds held by NATO; and
- (b) a system of controls on transfers of such funds, in particular into hard currencies.

12. He pointed out that the question under (a) was under discussion by the Military Budget Committee, and suggested that further discussion in the Working Group on Article 12 should be deferred until the Military Budget Committee had concluded its deliberations.

13. The Working Group:

- (3) Agreed to request the Secretariat to have the two questions considered by the Military Budget Committee at its forthcoming meeting, and to invite the Committee to express its opinion before the next meeting of the Working Group.

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MS-R(52) 9

Summary Record of a Meeting of the Working Group on Status, 10 July 1952.

*I. Draft Protocol on the Status of Allied Headquarters.*¹

¹ Reference: C-M(52) 30 (7 June 1952)

ARTICLES 3 AND 7: DRAFTING AMENDMENTS

1. The Chairman suggested that the intention of the Protocol would be clarified by:

- (a) amending Article 3(b)(ii), by adding after the words "Allied Headquarters" the words "or in respect of whom an arrangement has been made under paragraph 2 of Article 7 of this Protocol"; and
- (b) amending the passage within brackets in paragraph 2 of Article 7 to read: "other than those to whom paragraph 1 of this Article applies and, if the Party concluding the arrangement so desires, any not ordinarily resident within its territory."

2. The Working Group agreed that these amendments correctly represented the intention of the Protocol but considered that it was not desirable to make further amendments at this stage and that it would be sufficient to record the confirmation of the Chairman's interpretation of the intention of the Protocol in the Summary Record of the meeting.

ARTICLE 7

3. The Canadian Representative confirmed the accuracy of the first interpretation of paragraph (a) of the Canadian declaration,² given by the Chairman at the previous meeting.³ He added that the drafting changes suggested by the Chairman had been endorsed by the Canadian Government. Paragraph (a) would now read as follows:

These authorities regard Canada's right to tax Canadian citizens resident or ordinarily resident in Canada as having been maintained by the provisions of paragraph 2 of Article 7 permitting a Party to the Protocol to conclude an arrangement whereby it can employ, pay and tax each member of the quota of its nationals serving on the Allied Headquarters.

4. The Working Group:

- (1) Noted the text of the Canadian declaration as amended.

5. The Netherlands Representative reiterated the opposition of the Netherlands Government to the principle of extending exemption from taxation to a new group of international officials and stated his Government's preference for the course of action suggested in MS-R(52) 8, par. 6(a). Since, however, a majority of delegations were in favor of signing the Protocol in its present form, he would

² MS-D(52) 10 (2 July 1952).

³ See MS-R(52) 8, par. 2 (3 July 1952).

not press his point, provided that the Working Group would recommend to the Council that the question of taxing international officials should be studied by an appropriate body within NATO.

5a. The Portuguese Representative said that his Government could not accept the deletion of paragraph 2 of Article 7, since this would mean a departure from the principle of not taxing contributions from member countries, and they wished to avoid the creation of a precedent in this respect.

6. The Working Group:

(2) Agreed to

- (a) retain Article 7 in its present form;
- (b) recommend to the Council that an appropriate NATO agency be entrusted with the task of examining the merits and possibility of introducing a system of taxation of salaries of internationally employed personnel of NATO, including International Headquarters; and
- (c) invite delegations to recommend to their Governments that they should consider similar steps with regard to other international organizations.

(3) Noted the following statement by the Netherlands Delegation:

Several members of the Working Group have declared that the regulations concerning the fiscal status of the International Headquarters and their personnel, as set forth in Articles 7 and 8 of the draft Protocol, cannot satisfy our Governments.

The main objection of those Governments is to the clause of Article 7 exempting from taxation the salaries of civilian personnel paid directly by the Headquarters.

Although this exemption is in accordance with the practice followed during recent years in respect of the personnel of international organizations—see, for example, Article 19 of the Convention on the Status of NATO, signed at Ottawa—these Governments, for the reasons explained below, consider that this policy should be discontinued.

By granting exemption from taxation to the ever increasing personnel of international organizations, a large and growing class of persons is being created who unjustifiably are enjoying privileges which place them in a more favored position than other taxpayers or than officials of equal rank in the employ of member States.

This creation is in conflict with the principles of reasonable and equitable taxation and is, therefore, contrary to the spirit of justice.

So as not to delay the signing of the Protocol in question, the Representatives of these Governments have accepted the proposed Articles 7 and 8, subject, however, to the Working Group's recommending to the NATO Council that, when this Protocol is discussed, it should set up a committee of fiscal experts to seek a satisfactory formula for application, not only to NATO, but also to the other international organizations of which the NATO countries are members.

These Representatives consider that the committee in question would be well advised to base its work on the recommendations put forward in this connection in Paris in January 1952 by the fiscal experts of the signatories to the Brussels Treaty.

- (4) The Working Group feels that it can give this proposal its support and therefore recommend to the Council that such a committee should be set up.

6a. The views expressed on this matter by the Netherlands Delegation were endorsed by the Belgian Delegate.

ARTICLE 8

7. The Working Group:

- (5) Agreed to Article 8 of the draft Protocol, subject to the amendment proposed by the Belgian Delegate, namely: after the words "common defence" the insertion of the words "and for their official and exclusive benefit."

ARTICLE 12

8. The Secretary of the Working Group reported that he had referred to the Military Budget Committee the two questions raised by the Netherlands Delegation concerning Article 12, namely the question of an exchange rate guarantee, and that of the controls on the transfer of NATO funds, in particular into hard currencies. This Committee, which was meeting on the same day, had started to examine these questions; in the light of discussion the Committee felt that it would be necessary to hold a joint meeting with the Civil Budget Committee. This meeting could not be held before 22 July.

9. The Working Group:

- (6) Agreed not to submit its report to the Council until the questions raised by the Netherlands Delegation concerning Article 12 had been solved.⁴

⁴ The Netherlands Delegation has since notified the Secretariat of the withdrawal of its reservation on this point. [Footnote in original text].

II. Interpretation of the Status of Forces Agreement.

10. The Chairman, speaking in his capacity as the United Kingdom Delegate, referred to the words "or out of any other act, omission or occurrence for which a force or civilian component is legally responsible" at the beginning of paragraph 5 of Article VIII of the Status of Forces Agreement. He said that, in the view of his Government, the intention behind these words (read with subparagraph (a) of paragraph 5) was that the same principles which are applied under the law of the receiving State for determining whether the receiving State is legally liable in tort for the acts or omissions of the employees, etc., of its armed forces or in respect of damage arising from property owned by them, should be applied in determining the liability of a visiting force or sending State for the purposes of paragraph 5. (See paragraph 6 of MS-R(51) 10 of 20 April 1951, which relates to the text of paragraph 5 as contained in D-D(51) 57 of 28 February 1951, and paragraphs 29-30 of MS-R(51) 18 of 2 May 1951, which relates to the text in MS-D(51) 28 of 27 April 1951). Consequently, although a visiting force or a civilian component does not have juridical personality in the United Kingdom and therefore cannot be sued there as such, the United Kingdom proposes, by arrangement with other NATO countries which have forces in the United Kingdom, to develop appropriate procedures to enable the question of liability to be determined on the above basis in disputed cases in accordance with the intention of paragraph 5. The Chairman said that the United Kingdom Government would like their interpretation of paragraph 5 to be brought to the attention of other NATO Governments and any comments, which those Governments might have, to be communicated to the United Kingdom Delegation as soon as possible.

III. Date of the Next Meeting.

11. The date of the next meeting was left open and would depend on the progress made by the Military Budget Committee with regard to Article 12 of the draft Protocol.

C-R(52) 18

**Summary Record of a Meeting of the North Atlantic Council,
20 August 1952**

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*II. Protocol on the Status of International Military Headquarters.*¹

2. The Chairman recalled that the preparation of the Protocol had taken many months of intensive work, and he expressed appreciation of the spirit of cooperation shown by member countries, which had made it possible to agree on a text without reservation. He also thanked the Chairman of the Working Group for the excellent way in which he had conducted the proceedings of that Group.

2a. The Netherlands Representative recalled that his Government had reserved its position on Article 12 at the meeting of the Council on 2 July. That this reservation had now been withdrawn, however, implied no lessening of the apprehension felt by the Netherlands in regard to this Article. The Netherlands Government still had the same difficulty in approving the text as it stood; but, in order not to delay signature and because it was confident that the proposals at present under consideration by the Budget Committee would eventually be adopted, the Netherlands Representative would make no formal reservation.

However, in view of the resignation of the Netherlands Government, there was no assurance that the new Government would be prepared to present this Protocol to Parliament for ratification, pending the results of the above mentioned study by the Budget Committee.

Accession of Greece and Turkey to Forces Agreement

3. The Council:

- (1) Adopted the draft Resolution² on the accession of Greece and Turkey to the Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces.

Signing of the Protocol

4. As certain Representatives had not yet received their Government's authorization to sign the Protocol, the Chairman proposed that, in view of the general desire for an early signature, a special meeting be convened as soon as the Representatives concerned were able to participate.

5. The Council:

- (2) Invited those delegations who had not yet received authorization to sign the Protocol to notify the Secretariat as soon as this had been received.

¹ For the final text of the Protocol, see page 43, *supra*. A copy of this final text was distributed on 26 September 1952, for information and record purposes, as C-M(52) 30(F), which has been omitted.

² C-M(52) 63, which has been omitted here.

- (3) Agreed that a meeting would be convened at the discretion of the Chairman for the purpose of signing the Protocol.

Application of the Protocol

6. It was generally agreed, on the suggestion of the United Kingdom Representative, that at a later date consideration would be given to the application of the Protocol to the newly established Headquarters, Allied Land Forces, South East Europe.

7. The Council:

- (4) Adopted the draft Resolution³ on the application to certain subordinate Headquarters of the Protocol on the Status of International Military Headquarters.

Implementation of the Protocol

8. The Council:

- (5) Adopted the draft Resolution⁴ on implementation of the Protocol on the Status of International Military Headquarters, amended by the deletion of the words "signed today" in paragraph 1.

Studies recommended by the Working Group

9. The Council:

- (6) Instructed the Secretariat to make arrangements for the studies recommended⁵ by the Working Group on Military Status to be undertaken.

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C-R(53) 27

**Summary Record of a Meeting of the North Atlantic Council,
20 May 1953**

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*V. Tax Exemption for SHAPE and Subordinate Headquarters.*¹

24. M. Lebigot (SHAPE) said that, as a result of negotiations with the French Government, an agreement had been reached with regard to tax exemption for SHAPE and its subordinate headquarters which was satisfactory both to SHAPE and, he believed, to the Military Budget Committee. It was hoped that similar agreement could be reached with the host Governments of other military headquarters.

³ C-M(52) 56, Annex B (25 July 1952).

⁴ C-M(52) 56, Annex C (25 July 1952).

⁵ C-M(52) 56, par. 7 (25 July 1952).

¹ Reference: C-M(53) 62 (5 May 1963).

25. The French Representative pointed out that the wording of paragraph 3(a) of Annex B to the document before the Council went too far in that it recommended that there should be exemption for expenditure incurred "from all taxes or fees *whatsoever*." The wording of Article 8 of the Protocol on the Status of International Military Headquarters, of which the present document was an implementation, referred only to relief from duties and taxes "as far as practicable." Further, paragraph 5 of this Annex was a recommendation that the Council should invite SHAPE to continue negotiations with all Governments concerned *on the basis* of the recommendations contained in paragraph 3. He felt that the Council could not endorse the recommendation in view of the wording of paragraph 3(a).

26. The Netherlands Representative agreed with the French Representative on this point and requested that paragraph 5 should read: "continue the negotiations with all Governments concerned, *giving due consideration* to the recommendations contained in paragraph 3 above."

27. The Standing Group Liaison Officer asked whether the recommendation was intended to cover all headquarters or whether it was limited only to those under SHAPE command.

28. General Roggen, Chairman of the Military Budget Committee, said that the recommendation was intended to cover all international military headquarters including, of course, SACLANT. SHAPE had simply taken the first step in negotiating with the French Government and was anxious to know whether the Council approved of the step it had taken. The Military Budget Committee had examined the question from a strictly budgetary point of view, and its recommendations, contained in Annex B to C-M(53) 62, were based on budgetary considerations.

29. After a brief discussion, the Council:

Agreed that a note should be prepared by the Secretariat indicating the action called for by the Council and that the question should be re-examined by the Council as soon as possible.

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C-R(53) 30

Summary Record of a Meeting of the North Atlantic Council, 17 June 1953

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III. Tax Exemption for Allied Military Headquarters.¹

9. The Chairman pointed out that C-M(53) 74 had been prepared by the Secretariat in conformity with the request made by the Council at its meeting on 20 May. The Council was invited to consider the action proposed in paragraph 6 of this document.

10. The Norwegian Representative said that, while he did not anticipate that his Government would object to the recommendations in paragraph 6 of this document, he had no instructions and must therefore reserve his position for the time being.

11. The United Kingdom Representative said that, while he could endorse the recommendations contained in paragraph 6(a) of the document, he must point out that in the case of one international headquarters the decision for these matters would rest primarily with the Government of Malta. He had no doubt, however, that the authorities in London would bring to the notice of that Government the importance which NATO attached to the matter.

12. The United States Representative said that, while approving the action suggested in paragraph 6 of the document, his Government wished to emphasize the fact that nothing in the document under discussion should be interpreted as contradicting the established policy of making facilities available to headquarters free of charge to the greatest possible extent.

13. A number of Representatives said that they must reserve their position with regard to the date of 1 November 1952, which was suggested as the date on which exemptions from taxation would take effect. It was generally agreed that whatever date was finally approved would apply to the host Governments concerned.

14. The Council:

Approved the recommendations contained in paragraph 6 of C-M(53) 74, subject:

- (a) to confirmation by those Permanent Representatives who were without instructions from their Governments; and
- (b) to the reservations with regard to the date indicated in paragraph 6(d) (i) of the document, referred to in paragraph 13 above.

C-R(53) 47

Summary Record of a Meeting of the North Atlantic Council, 4 November 1953

¹ Reference: C-M(53) 74 (10 June 1953). Previous reference: C-R(53) 27, par. 24-29 (20 May 1953).

*VI. Signature of Agreement between the French Government and SACEUR.*¹

18. The French Representative informed the Council that the Agreement concluded between the French Government and SACEUR to determine the special conditions relating to the installation and operation in French metropolitan territory of the Supreme Headquarters of the Allied Forces in Europe and of subordinate headquarters would be signed in Paris on 5 November 1953. The text of the Agreement would be communicated to the Council. This Agreement related to the Protocol on Headquarters and would be signed at 11.30 at the Ministry of National Defense by M. Mons and General Schuyler.

19. The Council took note of the statement by the French Representative.

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C-R(53) 51

**Summary Record of a Meeting of the North Atlantic Council,
9 December 1953**

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VII. Military Headquarters Protocol.

51. The Netherlands Representative, speaking on behalf of his own Government and of his Belgian and Luxembourg colleagues, said that, on 20 June 1953, Representatives of Belgium, Luxembourg and the Netherlands signed a Declaration concerning the Military Headquarters Protocol, in which it was stated that their nationals should not avail themselves of the provisions of that Protocol to claim in the territory of any of these Powers any exemption which they did not enjoy in their own territory in the matter of duties, taxes and other charges, the unification of which had been or would be effected pursuant to the Agreement relating to the establishment of the Belgium-Luxembourg-Netherlands Economic Union. The original of this Declaration had in the meantime been deposited with the Department of State in Washington, where eventually the instruments of ratification would also be deposited. He wished to add that this in no way implied a reservation on the obligations accepted vis-à-vis other

¹ This is the Agreement of which the original draft appeared in D-D(51) 301(R) (3 January 1952).

NATO partners under the Protocol; the Declaration had as its only purpose the alignment of certain provisions of the Protocol with the special relationship existing between the three countries.

52. The Council took note of the statement by the Netherlands Representative.

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C-R(54) 24

Summary Record of a Meeting of the North Atlantic Council, 2 June 1954

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III. Agreement on the Status of NATO Armed Forces.

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12. The Icelandic Representative pointed out that the questions covered in the NATO Agreement, so far as Iceland was concerned, were dealt with in a bilateral Agreement between the United States and Iceland.¹ His Government had, therefore, taken no steps to ratify the multilateral Agreement, since it considered that no useful purpose would be served by so doing. The view of his Government had been made known to the Council Deputies in London in 1951, and there had been no objection to the position then taken by Iceland. However, if other Representatives felt there was some advantage in having Iceland ratify this Agreement, he would be glad to hear their views.

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15. The Council:

(2) Agreed to consider the special position of Iceland at a later meeting of the Council.²

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C-R(54) 26

Summary Record of a Meeting of the North Atlantic Council, 23 June 1954

¹ See MS-D(51) 31 (25 May 1951).

² See C-R(54) 26, par. 12-16 (23 June 1954).

III. Status of Forces Agreement: Special Position of Iceland.¹

12. The Chairman reminded the Council that at their meeting on 2 June they had agreed to consider the special position of Iceland, with regard to ratification of the Agreement on the Status of NATO Armed Forces, at a later meeting. At the meeting of 2 June, the Representative of Iceland had referred to the bilateral Agreement between Iceland and the United States.² The Secretariat had examined that Agreement, and it seemed clear that the Agreement covered all the points contained in the NATO Military Status Agreement. Moreover, in Article 11 of the Iceland-United States Agreement it was stated that: "The Government of Iceland will extend to the forces of any Government signatory to the North Atlantic Treaty, when such forces are stationed in Iceland, the same privileges extended to the United States forces by preceding Articles of this Annex upon the request of the Government concerned." In these circumstances, did the Council feel that there were any practical advantages in ratification by Iceland of the NATO Military Status Agreement?

13. In the course of the subsequent discussion the following main points were made:

- (a) It was possible that the bilateral Agreement did not, in fact, cover all the points contained in the multilateral Agreement, particularly with regard to intergovernmental claims and civilian components of armed forces.
- (b) There was the special problem of small numbers of service personnel who might find themselves in Iceland for short periods. Any incidents which might arise out of their temporary stay in Iceland were not covered, except in the case of United States forces.
- (c) If member Governments other than the United States asked for the bilateral Agreement to be extended to cover their forces stationed in Iceland, they would still have no firm juridical basis, in that the bilateral Agreement might be revoked at any time by the two parties to it. Further, any question of interpretation of the bilateral Agreement would be decided by the two parties to it, without third parties having a legal right to make their views known.
- (d) It was generally felt that, even though the bilateral Agreement might be extended to include third parties, the most satisfactory procedure would be for Iceland to sign and

¹ Previous reference: C-R (54) 24, par. 9-15 (2 June 1954).

² See MS-D (51) 31 (25 May 1951).

ratify the multilateral Agreement whether or not the bilateral Agreement was subsequently rescinded.

14. The Representative of Iceland thought that it was not quite true to say that this was a purely bilateral Agreement, and he pointed out that in the preamble to the Agreement it was stated that it had been signed on behalf of NATO. At the same time, he stressed the fact that his Government was not trying to avoid its proper responsibilities but simply felt that, if Iceland were to ratify the multilateral Agreement, a certain amount of confusion and duplication might result. His Government was fully prepared to consider any difficulties or requirements which member Governments might bring to its notice.

15. The Standing Group Liaison Officer pointed out that this was a question with which SACLANT was also directly concerned, since any of the nations with ships under his command might be involved.

16. The Council:

- (1) Instructed the Secretariat to make a further study of the two Agreements and to report to the Council as to the difference, if any, which might exist between them.
- (2) Agreed to consider this problem further as soon as the Secretariat report was available.

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PART III. DOCUMENTS

Cmd. 7868

Agreement Relative to the Status of Members of the Armed Forces of the Brussels Treaty Powers ¹

His Royal Highness the Prince Regent of Belgium, the President of the French Republic, President of the French Union, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands and His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas,

Desiring to define the conditions applicable to armed forces of any one of them stationed in the territory of any other of them in conformity with the Treaty signed at Brussels the 17th March, 1948 ² hereinafter referred to as the Brussels Treaty,

Have appointed as their Plenipotentiaries:

[Names omitted],

who, having exhibited their full powers found in good and due form, have agreed as follows:—

ARTICLE 1

Definitions

In this Agreement the expression—

- (a) “*foreign force*” means an armed force maintained by a Contracting Party in the execution of duties under the Brussels Treaty situated in the territory of another Contracting Party;
- (b) “*sending State*” means the Party maintaining the force; and
- (c) “*receiving State*” means the Party in the territory of which the force is stationed or through which it is passing in transit;
- (d) “*members of a foreign force*” means members of that force travelling or resident in the execution of their duties under the Brussels Treaty in the territory of a Contracting Party other than the “*sending State*.”

¹ Cmd. 7868. This was the basis for the original United States draft of the NATO Status of Forces Agreement: D-D(51) 23 (23 January 1951).

² Treaty Series No. 1 (1949), Cmd. 7599.

ARTICLE 2

1. For the purposes of this Agreement, the members of an armed force are classified as follows:—

- (i) Personnel on permanent duty;
- (ii) Personnel on temporary duty;
- (iii) Regularly constituted units or formations.

2. The nominal roll of personnel in category (i) above shall be kept up to date by the Secretariat-General of the Brussels Treaty Defence Organisation and forwarded to the representatives on the Permanent Commission of the Brussels Treaty for transmission to their Governments.

ARTICLE 3

1. On the conditions specified in paragraph 2, the “members of a foreign force” shall be exempt from passport and visa regulations on entering or leaving the territory of any of the Contracting Parties. They shall also be exempt from the regulations on the registration and control of aliens.

2. The following documents only will be required in respect of “members of a foreign force.” They must be presented on demand:

- (i) Personnel on permanent duty—
 - (a) Officers: Tri-lingual identity card.
(As in Appendix A.)
 - (b) N.C.O.’s and Other Ranks:
Personal service identity card;
Individual tri-lingual Movement Order.
(As in Appendix B.)
- (ii) Personnel on temporary duty—
Personal service identity card;
Individual tri-lingual Movement Order.
(As in Appendix B.)
- (iii) Regularly constituted units or formations—
Personal service identity card;
Collective tri-lingual Movement Order.
(As in Appendix C.)

Tri-lingual identity cards will be made out and issued to officers on permanent duty by the Secretariat-General of the Brussels Treaty Defence Organisation.

Individual tri-lingual Movement Orders will be filled in and issued by the Service Ministries of the “sending State.”

Collective tri-lingual Movement Orders will be filled in and issued by Service Ministries of the “sending State” and counter-signed by

the representative of the Service Minister concerned of the “receiving State” or, if necessary, “receiving States.”

ARTICLE 4

The “receiving State,” during the period before the provisions of the Convention on Road Traffic signed at Geneva, the 19th September, 1949,³ relating to driving licences or permits come into force so far as it is concerned, will either—

- (a) accept as valid without a driving test the driving licences or military driving permits issued by the “sending State”; or
- (b) issue its own licence to any “member of a foreign force” who holds a driving licence or military permit issued by the “sending State” without requiring him to undergo a driving test. Unless he holds an international driving permit, the statutory fee will be payable.

After this period the “receiving State” will follow alternative (a) above exclusively.

ARTICLE 5

1. The “members of a foreign force” will wear uniform.

They may, however, wear civilian dress; the regulations governing the wearing of civilian dress will be those in force in the “receiving State” for its own forces.

Regularly constituted units or formations of a “foreign force” must be in uniform when crossing a frontier.

2. Military vehicles shall carry, in addition to their registration number, a distinctive nationality mark, the form of which shall be agreed by the Military Committee of the Defence Organisation of the Brussels Treaty.

ARTICLE 6

1. The possession and carrying of arms by “members of a foreign force” shall be subject to the same laws and regulations as are applied to the forces of the “receiving State.”

2. “Members of a foreign force” in transit may carry arms, on condition that this is authorised by their Movement Orders, and that the weapons are unloaded and are carried in the regulation manner.

3. In any case, officers of a “foreign force” are always authorised to retain possession of their regulation personal weapons.

³ 3 UST 3008; TIAS 2487; 125 UNTS 22.

ARTICLE 7

1. It is the duty of "members of a foreign force" to respect the laws in force of the "receiving State" and to abstain from any activity inconsistent with the spirit of the present Agreement, and, in particular, from any political activity.

2. "Members of a foreign force" who commit an offence in the "receiving State" against the laws in force in that State can be prosecuted in the courts of the "receiving State."

When the act is also an offence against the law of the "sending State," the authorities of the "receiving State" will examine with the greatest sympathy any request, received before the court has declared its verdict, for the transfer of the accused for trial before the courts of the "sending State."

Where a "member of a foreign force" commits an offence against the security of, or involving disloyalty to, the "sending State" or an offence against its property, or an offence against a member of the force to which he belongs, the authorities of the "receiving State" where the offence was committed will prosecute only if they consider that special considerations require them to do so.

The competent military authorities of the "foreign force" shall have, within the "receiving State," any jurisdiction conferred upon them by the law of the "sending State" in relation to an offence committed by a member of their own armed forces.

3. In all cases where a "member of a foreign force" commits on the territory of the "receiving State" an offence either against the law of the "receiving State" or against the law of the "sending State," the authorities of both States will assist each other in the collection of evidence and the carrying out of all necessary investigations, including the seizure, and in proper cases the handing over of exhibits and of objects connected with the offence.

The handing over of the exhibits and of the objects seized may, however, be made subject to their return within the time specified by the authority delivering them.

4. Where the authorities of the "receiving State" consider that, in respect of an offence committed in the "receiving State" by a "member of a foreign force," the necessities of the investigation, trial and execution of sentence require the imprisonment of the offender, the authorities of the "foreign force" will assist in making the arrest, if the offender can be found and arrested in the territory of the "receiving State."

The authorities of the "receiving State" will, in the same way, furnish every facility for the tracing and arrest of "members of a

foreign force" wanted by the "sending State" in respect of an offence committed in the "receiving State." These authorities will, as soon as possible, hand over on their own territory to the "sending State" any "member of a foreign force" so arrested. They will also hand over to the "sending State" any "member of a foreign force" whom they may have imprisoned on a charge against their laws but whom they have decided not to prosecute.

5. (a) A "foreign force" shall have, in the conditions and within the limits defined in (b) and (d) below, the right to police any camps, establishments or other premises (hereinafter referred to under the general term "camp") which they have occupied as a result of an agreement with the "receiving State."

(b) The military police of the "foreign force" may take all appropriate measures to ensure the maintenance of order in such camps. They shall hand over to the police of the "receiving State," without delay, any person caught in the act of committing or about to commit or just having committed an offence against the laws of the "receiving State."

(c) The police of the "receiving State" may enter any camp for the purpose of arresting any person who is suspected of being guilty of an offence against the laws of the "receiving State."

(d) The military police of a "foreign force" may only be employed outside its camps at the request of the authorities of the "receiving State" and in liaison with those authorities and in so far as such employment is necessary to maintain order and discipline among the members of the force. The "foreign force" shall comply with any such request.

ARTICLE 8

1. Subject to paragraph 2 of this Article, each Contracting Party will be responsible for paying compensation for damage to third parties, caused in its territory by armed forces which are present there as a consequence of the Brussels Treaty in all cases where there would be a right to compensation if the damage had been caused by its own armed forces.

Subject to paragraph 6 below, claims by third parties in respect of this damage will be filed and considered, and decisions will be taken thereon, in accordance with the laws and regulations applicable in the "receiving State" to claims for damage caused by its own armed forces. If these claims are not settled by agreement, they shall be decided by the tribunals of the "receiving State," who are com-

petent in case of damage caused by its own armed forces and in that case the Government of the “receiving State” will ensure the defence against the claims.

2. The provisions of this Article do not apply to:—

- (a) Maritime salvage claims against a vessel used in connection with the Brussels Treaty or claims against such a vessel for damage caused by collision. These claims will be brought against the authorities of the Party to whom the vessel belongs.
- (b) Any damage suffered (i) to his person by a “member of an armed force” of any Party, while on duty, or (ii) by any property belonging to the State and used by Service Ministries (Navy, Army, Air Force) of any Party or its forces.

In both these cases no claim shall lie against the State to whose forces the person responsible for the damage belongs.

3. Subject to paragraph 4 of this Article, the cost of satisfying the claims referred to in paragraph 1 will be, at such intervals as may be agreed, distributed between the Parties in proportions which shall be provisionally, in default of subsequent agreement to the contrary, as follows:—

	<i>Per cent</i>
United Kingdom -----	50
France -----	25
Belgium-Netherlands-Luxembourg -----	25

4. The State on whose territory the damage has been caused will have no claim to contributions under paragraph 3 in respect of the cost of damage for which its own forces are exclusively responsible.

5. The Chiefs-of-Staff Committee of the Brussels Treaty Defence Organisation will decide in case of doubt whether the provisions of paragraph 4 are applicable in any particular case.

6. In the case of damage to State property (not excluded by paragraph 2 above and not covered by paragraph 4 above), the amount of the damage will be assessed by an arbitrator nominated by the “receiving State,” after consultation with the other Parties, and chosen from amongst its own nationals who hold or who have held high judicial office and will be distributed in accordance with paragraph 3 above.

This paragraph does not apply if the amount of the damage is less than—

Luxembourg -----	B.fr.	70,000
Belgium -----	F.fr.	490,000
France -----	L.fr.	70,000
Netherlands -----	fl.	5,320
United Kingdom -----	£	500

In the case of considerable variation in the rates of exchange be-

tween these currencies the Contracting Parties shall, by exchange of letters, agree on the appropriate adjustments of these amounts.

7. Claims arising out of contracts concluded by "members of a foreign force" in the course of their duties are excluded from the operation of the preceding provisions of this Article. They shall be dealt with by the authorities of the "foreign force" and the courts of the "receiving State" shall have jurisdiction in regard thereto if they cannot otherwise be settled.

ARTICLE 9

1. Claims (other than contractual claims) against "members of a foreign force" arising out of tortious acts or omissions, not relating to the performance of their duties, shall be dealt with in accordance with the following paragraphs of this Article.

2. The Government of the "receiving State" will consider the claim and assess the compensation in a just and fair manner, taking into account all the circumstances of the case, including the conduct of the injured person, and will prepare a report on the matter. This report will then be delivered to the authorities of the "sending State," who will then decide without delay whether they will offer an *ex gratia* payment and, if so, of what amount. If these authorities decide to offer an *ex gratia* payment, they will offer to settle the claim by making this payment themselves. If this offer is accepted, they will inform the "receiving State" of their decision and of the sum paid.

3. Nothing in the preceding paragraphs of this Article shall affect the jurisdiction of the courts of the "receiving State" to entertain the claims to which this Article relates brought against "members of a foreign force."

ARTICLE 10

If any question arises whether a tortious act or an omission of a "member of a foreign force" relates to the performance of his duties, the question shall be submitted to the arbitrator referred to in paragraph 6 of Article 8, whose decision on this point shall be final and conclusive in any court before which the claim for compensation may be brought. The arbitrator shall be furnished with all the information necessary to enable him to render a decision judicially.

ARTICLE 11

1. "Members of a foreign force" may purchase locally goods necessary for their own consumption and such services as they need under the same conditions as the nationals of the "receiving State."

2. Goods required for the subsistence of a "foreign force" will normally be purchased through the competent service departments which purchase such goods for the armed forces of the "receiving State." In order to avoid such purchases having any adverse effect on the economy of the "receiving State," the competent authorities of this State will indicate, when necessary, any articles the purchase of which should be restricted or entirely forbidden.

3. After agreement between the military authorities of the "sending" and "receiving States," the competent military authorities of the "receiving State" will assume sole responsibility for making suitable arrangements to make available to a "foreign force" the buildings and ground which it requires. These agreements and arrangements will be, as far as possible, in accordance with the regulations governing the accommodation and billeting of troops of the "receiving State." In the absence of a specified contract, the laws of the "receiving State" shall determine the rights, arising out of the occupation, of the owner of the buildings or ground occupied.

4. Civilian labour requirements of a "foreign force" will be satisfied in the same way as those of the military authorities of the "receiving State" and with the assistance of those authorities through the employment exchanges. The conditions of employment and work, in particular wages, supplementary payments and conditions for the protection of workers, shall be those laid down by the legislation of the "receiving State." Civilian workers employed by a "foreign armed force" shall not be regarded for any purpose as being members of that "force."

5. When a "foreign force" has at the place where it is stationed inadequate medical or dental facilities, the members of that force may receive medical and dental care, including hospitalisation, under the same conditions as the forces of the "receiving State."

6. The "receiving State" will give the most favourable consideration to requests for the grant to "members of a foreign force" of travelling facilities on its railways and of concessions with regard to fares. These facilities and concessions will be the subject of special arrangements to be made between the Governments concerned.

7. Subject to any general or particular financial arrangements between the Parties, payment in local currency for goods, accommodation and services furnished under paragraphs 2, 3, 4 and, if necessary, 5, will be made promptly by the military authorities of the "foreign force."

8. The "foreign force" shall not by reason of this Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the "receiving State."

ARTICLE 12

1. "Members of a foreign force" shall—

- (a) enjoy exemption from income tax levied in the "receiving State" on any pay or allowances which they receive from the Government of the "sending State." Such other exemptions from income tax as may be desirable to avoid any appreciable prejudice to "members of a foreign force" by reason of their service abroad, shall be agreed by the Parties and put into force as soon as possible;
- (b) be entitled to temporary exemption from duty and taxes on private motor vehicles imported temporarily for their own personal use. There is no obligation under this Article to grant any exemption from taxes payable in respect of the use of the roads by motor vehicles.

2. For the purpose of the levy of death duties on the estate of a deceased "member of a foreign force," the fact that he has been present in the "receiving State" shall not be regarded as creating a change of domicile or residence so far as he is concerned, and the tangible movable property of the deceased which is situated on the territory of the "receiving State" only by reason of his service there, shall be considered as not being situated on that territory.

ARTICLE 13

1. Save as provided expressly to the contrary in this Agreement, "members of a foreign force" are subject to the laws and regulations administered by the Customs Authorities of the "receiving State."

In particular, the Customs Officers will have the right, under the general conditions laid down by the laws and regulations of the "receiving State," to search "members of a foreign force" and to examine their luggage and vehicles.

2. The entry, departure and use of registered military vehicles shall be authorised free of all tax or duty on presentation of a triptyque in the form shown in Appendix D. These vehicles shall also be exempted from any tax payable in respect of the use of vehicles on the roads.

3. Official documents under official seal will not be subject to Customs inspection. Couriers carrying these documents, whatever their rank, must be in possession of an individual Movement Order, issued in accordance with Article 3. This Movement Order will show the number of despatches carried and certify that they contain only official documents.

4. Reasonable quantities of provisions, supplies and other goods,

imported by the authorities of a "foreign force" for the exclusive use of that force, shall be exempt from Customs duties and all other duties and taxes payable on importation. This duty-free importation shall be subject to the deposit, at the Customs Office, together with the Customs documents, of a certificate signed by an Officer authorised for that purpose.

A specimen of this certificate is given in Appendix E. The list of the Officers authorised in each "foreign force" to sign the certificates, as well as specimens of their signatures and the stamps used, shall be sent to the Customs administration of the "receiving State."

Imports made by the authorities of a "foreign force" other than for the exclusive use of their force, and imports effected personally by "members of a foreign force" are not, by reason of this Article, entitled to any exemption from taxes and duties or other conditions.

5. Goods which have been imported duty-free under paragraph 4 above—

- (i) can be re-exported to the country of origin of the goods or to the "sending State" provided that a certificate, issued in accordance with paragraph 4 above, is presented to the Customs Office. The Customs Authorities, however, may verify that the goods re-exported are as described in the certificate and have in fact been imported under the conditions of paragraph 4;
- (ii) cannot normally be disposed of in the "receiving State" by way of either sale or gift. However, in particular cases, such disposal may be authorised on conditions imposed by the Customs Authorities (for instance on payment of duty and tax and compliance with the requirements of the controls of trade and exchange).

6. Goods purchased in the "receiving State" can only be exported therefrom in accordance with the regulations in force in the "receiving State."

7. Special facilities for crossing frontiers shall be granted by the Customs Authorities to regularly constituted units or formations, provided that the Customs Authorities concerned have been duly notified sufficiently in advance.

8. Special arrangements shall be made so that fuel oil and lubricants for use or service in military vehicles, aircraft and vessels, may be delivered free of all duties and taxes.

ARTICLE 14

1. The Customs or Fiscal Authorities of the "receiving State" may, as a condition of the grant of any Customs or Fiscal exemption

or concession provided for in this Agreement, require such conditions to be observed as they may deem necessary to prevent abuse.

2. These authorities may refuse any exemption provided for by this Agreement in respect of the importation into the "receiving State" of articles grown, produced or manufactured in that State which have been exported therefrom without payment of, or upon repayment of, taxes or duties which would have been chargeable but for such exportation.

Goods removed from a Customs warehouse shall be deemed to be imported if they were regarded as having been exported by reason of being deposited in the warehouse.

ARTICLE 15

1. In order to prevent offences against Customs and Fiscal Laws and Regulations of a "receiving State," the Customs and Fiscal Authorities of the "receiving State" and the Military Authorities of a "foreign force" will afford each other mutual assistance in the conduct of enquiries and the collection of evidence.

2. The Military Authorities of the "foreign force" will render all assistance within their power to ensure that articles liable to seizure by or on behalf of the Customs or Fiscal Authorities of the "receiving State" are handed to those authorities.

3. "Members of a foreign force" committing offences against the Customs, Foreign Exchange and Fiscal Laws and Regulations of the "receiving State" will be dealt with under the normal rules of the "receiving State," but before any offender is prosecuted in a Court of Law, the facts shall be communicated to the competent military authority of the "foreign force." This authority will render all assistance within its power to ensure the payment of duties, taxes and penalties payable by "members of the foreign force."

4. Military vehicles and articles belonging to a "foreign force" seized in connection with an offence against the Customs and Fiscal Laws and Regulations will be handed over to the appropriate authorities of the "foreign force" concerned.

ARTICLE 16

1. "Members of a foreign force" remain subject to the Foreign Exchange Regulations of the "sending State," and are also subject to the regulations of the "receiving State."

2. The Foreign Exchange Authorities of the "sending" and the "receiving States" may, however, issue special regulations applicable to a "foreign force."

ARTICLE 17

If any Party is involved in war, each of the Contracting Parties shall have the right to suspend immediately the application of any of the provisions of this Agreement so far as its own territory is concerned.

If this right is exercised, the Parties will immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

ARTICLE 18

All differences between the Contracting Parties relating to the interpretation or application of the Agreement shall be settled between the Parties and there shall be no recourse to any outside jurisdiction. Except where express provision is made to the contrary in the Agreement, the Parties will make use of the machinery of the Permanent Commission for the settlement of such differences.

ARTICLE 19

Any Party may at any time request that a meeting of representatives of all the Parties to this Agreement should be held to consider the revision of any Article of this Agreement. The request for a meeting shall be addressed to the Secretary-General of the Permanent Commission, who shall convoke a meeting within three months from the date of the receipt of this request. If at any such meeting agreement is reached on the revision of any provisions of this Agreement, a protocol containing the revised provisions shall be drawn up, and shall come into force as soon as it has been approved by all the Contracting Parties.

ARTICLE 20

The present Agreement shall be ratified. The Instruments of Ratification shall be deposited as soon as possible with the Secretary-General of the Permanent Commission. It shall enter into force one month after the receipt of the fifth ratification.

ARTICLE 21

1. After the expiry of four years from the entry into force of the Agreement, any Contracting Party may transmit a notice of Denunciation to the Secretary-General of the Permanent Commission. He shall immediately inform all the other Contracting Parties of the receipt of the notice of Denunciation and shall as soon as possible

convoke a conference of all the Contracting Parties to consider the situation. A notice of Denunciation shall take effect one year after the date on which it is deposited, unless it is withdrawn.

2. The present Agreement shall remain in force until notice of Denunciation deposited in accordance with paragraph 1 of this Article has taken effect.

In witness whereof the above-mentioned Plenipotentiaries have signed the present Agreement and have affixed thereto their seals.

Done this 21st day of December, 1949, in English and French, both texts being equally authoritative, in a single copy which will remain deposited in the archives of the Permanent Commission. The Secretary-General of the Permanent Commission shall transmit certified copies of this Agreement to all signatory Governments.

As soon as possible, a text of this Agreement in the Netherlands language will be prepared and as soon as this text has been agreed by all signatory Governments the text in the Netherlands language will also be authoritative.

[There follow the signatures on behalf of Belgium, France, Luxembourg, the Netherlands and the United Kingdom.]⁴

D-D(50) 19

Agreement on the Status of NATO, National Representatives and International Staff—Note by the United Kingdom Deputy (4 August 1950)

1. At their meeting on 25 July 1950, the Council Deputies agreed to set up a subcommittee, consisting of the Representatives of Belgium, France, Italy, Norway, the United Kingdom and the United States of America, to consider the question of the status of NATO Representatives and International Staff.

2. At this meeting it was agreed, as a first step, to invite the Deputies to give an indication of the number of persons likely to be involved. A questionnaire to this effect was circulated accordingly to the Deputies.

3. The Subcommittee has now had a further meeting to consider the replies to this questionnaire. At this meeting it was agreed that, although the number of persons involved was perhaps not very great at the moment, there was every likelihood that an increasing number of individuals would be required to be attached to the different National Delegations in London in the future. Furthermore, an appre-

⁴ The Appendices referred to in Article 3, par. 2, and in Article 13, par. 2 and 4, have been omitted.

cial number of persons would no doubt be employed in London in connection with the various "international" sections of the Organization—e.g., the Secretariat, the technical staff attached to the Chairman, the information section, etc. It was also desirable to provide that the Deputies and their staff should be covered as regards immunities, etc., not only while in the United Kingdom but when visiting the other countries concerned. It was therefore agreed that the United Kingdom Representative should propose to the Deputies that the matter be dealt with on the following lines:—

- (1) In order to deal with the long-term problem an international agreement should be entered into by the countries which are parties to the North Atlantic Treaty. This would follow the pattern of the agreement already concluded in similar cases—e.g., the General Convention on Immunities and Privileges for the Specialized Agencies of the United Nations. It would define in detail the privileges and immunities to be enjoyed by the Organization itself and by all persons connected with it in the various countries concerned. In this way, it would be possible, as far as the United Kingdom is concerned, to cover not only the Deputies and their immediate staff but the personnel serving as national representatives on bodies such as the Military Production and Supply Board or the Regional Planning Groups, and individuals attached to any "international" staffs which might be established in London. The United Kingdom authorities would be glad to prepare the first draft of such an agreement, the details of which could then be discussed between appropriate representatives of the various Governments. This procedure would, however, inevitably take some little time—all the more so since, before it can be finally put into effect as far as the United Kingdom is concerned, Parliamentary approval would be required.
- (2) In the meantime, therefore, and until the proposed agreement comes into force, the Deputies themselves and their immediate personal staff should be notified to the Foreign Office by their respective diplomatic representatives as members of the latter's staffs. This would enable such persons to enjoy full diplomatic privileges and immunities. The only persons to be notified in this way would as a rule be those persons working directly with the Deputy in connection with the work of the Committee of Deputies; and persons working on the other bodies, such as the Defense Financial and Economic Committee or the Regional Groups, would not

normally be included. It is anticipated, therefore, that only a comparatively small number of persons would be involved in respect of each country. As soon as the international agreement came into force, these persons would cease to be "on the diplomatic list."

- (3) In the case of persons other than those covered by paragraph (2) above, who arrive in this country to take up duty in connection with any part of the NATO before the coming into force of the projected international agreement, every effort will be made to ensure that they receive the maximum consideration possible consistent with the regulations in the matter of customs facilities, etc., at the time of their entry into the United Kingdom.

D-D(51) 23

Status of Forces Agreement—Draft Submitted by the United States Deputy (23 January 1951) ¹

*Privileges and Immunities of Personnel of the North Atlantic Treaty Nations Subject to Military Law*²

PREAMBLE

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949, desiring to establish mutual privileges and immunities for personnel, who are subject to military law, of one member nation on duty in the territory of another member nation:

Have agreed as follows:

ARTICLE I

In this Agreement the expression—

- (a) "contingent" means military personnel of the sending State and civilian personnel subject to military law of the sending

¹ The editor has substituted Roman numerals for Arabic in the enumeration of the Articles of this draft for two reasons: (a) the Articles in the final text, as well as most of the intermediate texts, of this Agreement bear Roman numerals; and (b) the use of Roman numerals makes it easier to distinguish this draft from the corresponding Articles in the Brussels Treaty Status Agreement.

² Reference: MS-R(51) 1-4 (29-31 January 1951); MS(F)-R(51) 2 (13 February 1951); MS(F)-R(51) 4-5 (14-15 February 1951); MS(J)-R(51) 1-2 (8 February 1951).

State maintained by a Contracting Party on duty in the territory of another Contracting Party, except nationals of the receiving State who are not also nationals of the sending State, and persons ordinarily resident in the receiving State who are not nationals of the sending State;

- (b) "sending State" means the Party maintaining the contingent;
- (c) "receiving State" means the Party in the territory of which the contingent is stationed or through which it is passing in transit; and
- (d) "dependent" means the spouse of a member of the contingent or a child of the member depending on him for support.

ARTICLE II

1. On the conditions specified in paragraph 2 of this Article, and subject to procedures established by the receiving State relating to entry and departure, the members of a contingent shall be exempt from passport and visa regulations and immigration inspection on entering or leaving the territory of any of the Contracting Parties, and shall also be exempt from the regulations on the registration and control of aliens but shall not be considered as acquiring any rights of permanent residence or domicile in the territories of the receiving State.

2. The following documents only will be required in respect of members of a contingent. They must be presented on demand:

- (a) personal government identity card; and
- (b) individual or collective movement order in the English and French languages, issued by an appropriate agency of the sending State, certifying to the status of the individual as subject to military law, to the contingent of which he is a member, and signed by an appropriate representative of each receiving State.

ARTICLE III

The receiving State will accept as valid, without a driving test or fee, the driving permit or licence or military driving permit issued by the sending State or sub-division thereof to a member of its contingents, or to any of his dependents; or will, to the extent it is bound to the sending State by the provisions of the 1949 Geneva Convention on Road Traffic, apply those provisions in recognition of a driving permit issued by the sending State or sub-division thereof to a member of its contingents and any of his dependents. In lieu of the foregoing, the receiving State or sub-division thereof may issue

to any member of a contingent or any of his dependents, a driving permit or license, providing no driving test or fee is required.

ARTICLE IV

1. Members of regularly constituted military units and formations will normally wear uniform. They may, however, wear civilian dress; the regulations governing the wearing of civilian dress will be those in force in the receiving State for its own forces. Regularly constituted military units or formations of a contingent must be in uniform when crossing a frontier.

2. Official vehicles shall carry, in addition to their registration number, a distinctive nationality mark.

ARTICLE V

1. Military members of a contingent may carry arms, on condition that this is authorised by their orders.

2. In any case, military officers of a contingent are always authorised to retain possession of their regulation personal weapons.

ARTICLE VI

1. It is the duty of members of a contingent to respect the laws of the receiving State and to abstain from any activity inconsistent with the spirit of the present Agreement, and in particular from any political activity in the receiving State.

2. Members of a contingent shall be subject to the exclusive criminal jurisdiction of the sending State when charged with:

- (a) an offence solely against the property of a dependent of the sending State or against the person or property of another member of the contingent of the sending State;
- (b) an offence punishable by the applicable law of the sending State but not by the laws of the receiving State;
- (c) an offence relating to the security of the sending State but not to that of the receiving State. A security offence against a particular State shall include:
 - (i) treason against that State;
 - (ii) any offence of the nature of sabotage or espionage or against any law relating to official secrets of that State;
- (d) an offence arising out of any act done in the performance of official duty or pursuant to a lawful order issued by the competent authorities of the sending State.

In particular cases, the sending State may waive any immunity

from criminal jurisdiction of the receiving State which the members of its contingent may derive by virtue of this paragraph upon written notice of such waiver delivered to the appropriate authorities of the receiving State as soon as practicable.

3. Except as provided above, a member of a contingent charged with having committed within the territory of a receiving State an offence punishable by the laws thereof and also by the laws of the sending State shall be subject to the jurisdiction of both States, provided that the receiving State shall have the right to exercise jurisdiction in the first instance. If the receiving State decides not to exercise jurisdiction, it shall notify the authorities of the sending State of its decision as soon as practicable. The authorities of the receiving State shall promptly notify the authorities of the sending State of the arrest of any member of a contingent.

4. Whenever a member of a contingent is prosecuted in the courts of the receiving State he shall be entitled:

- (a) To a speedy and public trial;
- (b) To be informed in advance of trial of the specific charge or charges made against him;
- (c) To be confronted with the witnesses against him;
- (d) To have compulsory process for obtaining witnesses in his favour;
- (e) To defence by a qualified advocate or counsel of his own choice, or failing such a choice, the court shall appoint a qualified advocate or counsel to conduct his defence;
- (f) If he considers it necessary, to the services of a competent interpreter;
- (g) To have a representative of his government present at any stage of the detention and trial by the receiving State.

5. Subject to the provisions of this convention, the military authorities of the sending State shall have the right to exercise within the receiving State all jurisdiction and control conferred on them by the laws of the sending State over all members of their contingents.

6. Members of a contingent shall be immune from the civil jurisdiction of the receiving State in matters arising from the performance of their official duties, provided that in particular cases such immunity may be waived by the sending State.

7. Upon the request of the sending State, the receiving State agrees to seek such legislation as the military authorities of both States agree is necessary to insure the adequate security and protection within its territory of installations, equipment, property, records, and official information of any other Contracting Party and the

punishment of persons who may contravene such laws or regulations enacted for that purpose.

8. The authorities of the receiving and sending States will assist each other in the arrest and handing over of offenders, the collection of evidence and the carrying out of all necessary investigations, including the seizure and in proper cases the handing over of exhibits and all objects connected with the offence.

9. Regularly constituted military units or formations shall have the right to police any camps, establishments or other premises which they have occupied as a result of an agreement with the receiving State, under the following conditions:

- (a) The military police of the regularly constituted military units or formations may take all appropriate measures to ensure the maintenance of order in such installations.
- (b) Employment of the military police of a regularly constituted unit or formation outside its installation will be subject to arrangement with the authorities of the receiving State and in liaison with those authorities where such employment is necessary to maintain discipline and order among the members of such regularly constituted units or formations.

10. Notwithstanding the foregoing provisions, it is mutually agreed that in time of hostilities in the North Atlantic area the sending State shall have the right to exercise exclusive jurisdiction over any offence which may be committed by a member of its contingent in the receiving State, except security offences as defined in paragraph 2(c) above against the receiving State.

ARTICLE VII

1. Whenever a member of a contingent of one Contracting Party in the performance of his official duties incident to noncombatant activities causes damage to or loss or destruction of private property in the territory of another Contracting Party, or the injury or death of individual therein, the responsibility for paying compensation with respect to claims for such damage, loss, destruction, injury or death shall rest upon the receiving State in accordance with the provisions of this Article.

2. Claims and suits shall be filed, considered and determined or adjudicated in accordance with the laws and regulations of the receiving State with respect to claims or suits arising from the activities of its own forces. The receiving State may settle any such claim or suit in its currency, and payment of the amount agreed upon in settlement or of any judgment obtained shall be made by the receiv-

ing State. Such payment, or the final adjudication by the competent tribunals of the receiving State, denying payment, shall be binding and conclusive upon the claimant and the Contracting Parties. The government of the receiving State will ensure the defence against claims and suits arising under this Article.

3. Each Contracting Party waives all claims for damages to public property caused by a member of a contingent of any other Contracting Party wherever such claims for damage may arise.

4. The provisions of this Article do not apply to injury or death suffered by members of an armed force of any Contracting Party while in the performance of their official duties. In such cases, no claim shall lie against the Contracting Party to whose contingent the person causing the injury or death belongs. The provisions of the paragraph shall not affect any benefits which the municipal law of the sending State may provide for members of its contingents.

5. The costs incurred by the Contracting Parties in satisfying claims pursuant to the provisions of this Article shall be taken into full account in the assessment of each nation's contribution to the security of the North Atlantic area with a view to distributing as equitably as possible the total burden of collective defence measures under North Atlantic Treaty plans.

ARTICLE VIII

1. Members of a contingent and their dependents may purchase locally goods necessary for their own consumption and such services as they need under the same conditions as the nationals of the receiving State.

2. Goods purchased locally which are required for the subsistence of a contingent will normally be purchased through the competent departments which purchase such goods for government personnel of the receiving State. In order to avoid such purchases having any adverse effect on the economy of the receiving State, the competent authorities of this State will indicate, when necessary, any articles the purchase of which should be restricted or forbidden.

3. After agreement between the authorised representatives of the sending and receiving States, the competent authorities of the receiving State will assume sole responsibility for making suitable arrangements to make available to a contingent the buildings and grounds, as well as such other facilities and services as it requires. These agreements and arrangements will be, as far as possible, in accordance with the regulations governing the accommodation of similar personnel of the receiving State. In the absence of a specific contract the laws of the receiving State shall determine the rights and obliga-

tions arising out of the occupation or use of the buildings, grounds or facilities.

4. Local civilian labour requirements of a contingent will be satisfied in the same way as those of the comparable authorities of the receiving State and with the assistance of those authorities through the employment exchanges. The conditions of employment and work, in particular wages, supplementary payments and conditions for the protection of workers shall be those laid down by the legislation of the receiving State. Such civilian workers employed by a contingent shall not be regarded for any purpose as being members of that contingent.

5. When a contingent has at the place where it is stationed inadequate medical or dental facilities, the members of that contingent and their dependents may receive medical and dental care, including hospitalisation, under the same conditions as comparable personnel of the receiving State.

6. The receiving State will give the most favourable consideration to requests for the grant to members of a contingent of travelling facilities and concessions with regard to fares. These facilities and concessions will be the subject of special arrangements to be made between the Governments concerned.

7. Subject to any general or particular financial arrangements between the Parties, payment in local currency for goods, accommodation and services furnished under paragraphs 2, 3, 4, 5, and, if necessary, 6, will be made promptly by the authorities of the contingent.

8. The members of a contingent shall not by reason of this Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the receiving State, except foods imported or services created by a sending State for the use of, or resale to, its own personnel.

ARTICLE IX

1. Members of a contingent who are neither nationals of nor resident in the receiving State, and their dependents who are neither nationals of nor resident in the receiving State shall:

- (a) enjoy exemption from income tax levied in the receiving State on any income which they receive from sources outside the receiving State and on compensation for official services.
- (b) be entitled to exemption from duty and taxes on private motor vehicles imported for their own personal use while on North Atlantic Treaty duty. There is no obligation under

this Article to grant any exemption from taxes payable in respect of the use of roads by private motor vehicles. Official vehicles shall be exempted from any tax payable in respect of the use of vehicles on public roads.

- (c) be entitled to exemption from personal property taxes of the receiving State. For this purpose personal property of a member of a contingent or their dependents shall not be deemed to be located or present in or to have a situs for taxation in the receiving State.

In determining whether a member or his dependent is resident in the receiving State within the meaning of this paragraph, the presence in the receiving State of such member or dependent resulting solely from the employment by the sending State shall not be considered.

2. For the purpose of the levy of death duties on the estate of a deceased member of a contingent or their dependents, the fact that he has been present in the receiving State shall not be regarded as creating a change of domicile or residence so far as he is concerned, and the tangible movable property of the deceased which is situated on the territory of the receiving State only by reason of his service there, shall be considered as not being situated on that territory.

ARTICLE X

1. The customs authorities of the receiving State shall have the right, under the general conditions laid down by the laws and regulations of the receiving State, to search members of a contingent and their dependents and to examine their luggage and vehicles, and seize articles pursuant to such laws and regulations.

2. The entry, departure and use of official vehicles shall be authorized free of all tax or duty on presentation of a triptyque in the form shown in Appendix A.

3. Official documents under official seal will not be subject to customs inspection. Couriers carrying these documents, whatever their status, must be in possession of an individual movement order, issued in accordance with Article II. This movement order will show the number of despatches carried and certify that they contain only official documents.

4. Provisions, supplies, household or other goods, imported as authorised by the sending State for the exclusive use of a contingent and its members and their dependents, shall be exempt from customs duties and all other duties and taxes payable on importation. This duty-free importation shall be subject to the deposit, at the customs office, together with the customs document, of a certificate

signed by an official authorised for that purpose. A specimen of this certificate is given in Appendix B. The list of the officials authorised in each contingent to sign the certificates as well as specimens of their signatures and the stamps used, shall be sent to the customs administration of the receiving State.

5. Goods which have been imported duty-free under paragraph 4 above:

- (a) can be re-exported to the country of origin of the goods or to the sending State provided that a certificate, issued in accordance with paragraph 4 above, is presented to the customs office: the customs authorities, however, may verify that goods re-exported are as described in the certificate and have in fact been imported under the conditions of paragraph 4.
- (b) cannot normally be disposed of in the receiving State by way of either sale or gift: however, in particular cases such disposal may be authorised on conditions imposed by the customs authorities (for instance, on payment of duty and tax and compliance with the requirements of the controls of trade and exchange).

6. Goods purchased in the receiving State can only be exported therefrom in accordance with the regulations in force in the receiving State.

7. Special arrangements for crossing frontiers shall be granted by the customs authorities to regularly constituted units or formations, provided that the customs authorities concerned have been duly notified in advance.

8. Special arrangements shall be made by the receiving State so that fuel oil and lubricants for use or service in contingent official vehicles, aircraft and vessels, may be delivered free of all duties and taxes.

ARTICLE XI

1. The customs or fiscal authorities of the receiving State may as a condition of the grant of any customs or fiscal exemption or concession provided for in this Agreement, require such conditions to be observed as they may deem necessary to prevent abuse.

2. These authorities may refuse any exemption provided for by this Agreement in respect of the importation into the receiving State of articles grown, produced or manufactured in that State which have been exported therefrom without payment of, or upon repayment of, taxes or duties which would have been chargeable but for such exportation. Goods removed from a customs warehouse shall be

deemed to be imported if they were regarded as having been exported by reason of being deposited in the warehouse.

ARTICLE XII

1. In order to prevent offences against customs and fiscal laws and regulations of a receiving State, the customs and fiscal authorities of the receiving State and the authorities of a contingent will afford each other mutual assistance in the conduct of enquiries and the collection of evidence.

2. Authorities of a contingent will render all assistance within their power to ensure that articles liable to seizure by or on behalf of the customs or fiscal authorities of the receiving State are handed to those authorities.

3. This authority will render all assistance within its power to ensure the payment of duties, taxes and penalties payable by members of the contingent.

ARTICLE XIII

1. Members of a contingent shall comply with the foreign exchange regulations of the sending State and the receiving State.

2. The foreign exchange authorities of the sending and the receiving States may issue special regulations applicable to a foreign contingent and their dependents.

ARTICLE XIV

If any party is involved in hostilities in the North Atlantic area, each of the Contracting Parties shall have the right, so far as its own territory is concerned, to suspend 60 days after due notification the application of any of the provisions of this Agreement. If this right is exercised, the Parties will immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

ARTICLE XV

All differences between the Contracting Parties relating to the interpretation or application of the Agreement shall be settled between the Parties and there shall be no recourse to any outside jurisdiction. Except where express provision is made to the contrary in the Agreement, the Parties will make use of the machinery of the North Atlantic Council for the settlement of such differences.

ARTICLE XVI

Any Party may at any time request that a meeting of representatives of all the Parties to this Agreement should be held to consider

the revision of any Article of this Agreement. The request for a meeting shall be addressed to the Secretary, North Atlantic Council, who shall request the convocation of a meeting within three months from the date of the receipt of this request.

ARTICLE XVII

1. The present Agreement shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Government of the United States of America, which shall notify each signatory State of the date of deposit thereof.

2. The present Agreement shall, when instruments of ratification have been deposited by all the signatory States, come into force on the thirtieth day after the deposit of the final instrument of ratification.

3. The present Agreement shall be open to accession on behalf of any State which accedes to the North Atlantic Treaty. Accession shall be effected by the deposit of an instrument of accession with the Government of the United States of America, which shall notify each signatory and acceding State of the date of deposit thereof. In respect of any State on behalf of which an instrument of accession is deposited, the present Agreement shall come into force thirty days after the date of the deposit of such instrument.

ARTICLE XVIII

1. The present Agreement may be denounced by any Contracting Party after the expiration of a period of four years from the date on which the Agreement came into force.

2. The denunciation of the Agreement by any Contracting Party shall be effected by a written notification addressed by that Party to the Government of the United States of America, which shall notify all the other Contracting Parties of each such notification and the date of receipt thereof.

3. The denunciation shall take effect one year after the receipt of the notification by the Government of the United States of America. After the expiration of this period of one year, the Agreement shall cease to be in force as regards the Party which denounces it, but shall continue in force for the remaining Parties.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed the present Agreement.

Done at Washington this ----- day of -----, in the English and French languages, each equally authentic, in a single

original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

MS-D(51) 1

Status of Forces Agreement—Comparison between the Status of the Armed Forces of the Brussels Treaty Powers and the United States Draft (30 January 1951)

1. In conformity with the decision taken by the Working Group at its meeting on Monday, 29 January, the Secretary has the honor to transmit herewith:

- (a) the articles of the draft submitted by the United States Delegation, regrouped under various specialized headings;
- (b) a comparative table of the articles of the Agreement on the Status of the Armed Forces of the Brussels Treaty Powers¹ and those of the draft submitted by the United States Delegation.²

2. Regrouping of Articles by subjects.

- (a) Articles dealing with general questions—Preamble; Articles I, XIV, XV, XVI, XVII and XVIII.
- (b) Articles dealing with juridical questions—Articles II, III, VI, VII, VIII, IX, X and XII.
- (c) Articles dealing with financial questions—Articles IV, VII, VIII, IX, X, XI, XII and XIII.
- (d) Articles dealing with military questions—Articles II(2), IV and V.

3. Comparison between the Agreement on the Status of the Armed Forces of the Brussels Treaty Powers and the draft submitted by the United States Delegation.

A table comparing the Agreement and the Draft is annexed; it has been drawn up from the standpoint of the United States draft. Opposite each article of the United States draft, appearing in the first column, there stands in the second column the corresponding article of the Status of the Armed Forces of the Brussels Treaty Powers. On account of the great number of differences between the two documents, it has not been possible to reproduce them verbatim; they are however briefly described in the third column.

¹ Cmd. 7868 (21 December 1949).

² D-D(51) 23 (23 January 1951).

4. This comparative table shows that a number of articles or sections of articles which appear in the Status of the Armed Forces of the Brussels Treaty Powers have been omitted in the draft submitted by the United States Delegation, namely: art. 1(d); art. 2; art. 3(2), three last paragraphs; art. 6(1); art. 7(3), second paragraph; art. 7(4); art. 7(5), second sentence of (b) and (c); art. 8(2)(a); art. 8(4); art. 8(5); art. 8(6); art. 8(7); art. 9; art. 10; art. 12(1)(a), second sentence; art. 13(1), first paragraph; art. 13(4), third paragraph; art. 15(3), first sentence; art. 15(4); art. 19, third sentence.

5. The following articles of the draft are similar or identical to those of the Status of the Armed Forces of the Brussels Treaty Powers: art. I (b) and (c); beginning of art. II, 1; art. IV, 1 and 2; art. V, 1 and 2; art. VI, 1, 5 and 8; art. VII, 3; art. VIII, 1, 2, 3, 4, 5, 6 and 7; art. X; art. XI; art. XII; art. XIII; art. XV; art. XVI; art. XVII, 1 and 2; art. XVIII; Annex B.

ANNEX

Comparison between the Agreement on the Status of the Members of the Armed Forces of the Brussels Treaty Powers and the Draft submitted by the United States Delegation ³

<i>Draft</i>	<i>Agreement</i>	<i>Comment</i>
Preamble	Preamble	The preamble of the Agreement is drafted in the same wording as the Brussels Treaty itself, whereas the preamble of the draft has been shortened.
Art. I(a)	Art. 1(a)	The term "contingent" is used instead of "foreign force"; its definition includes military personnel and civilian personnel subject to the military law of the sending State, except certain categories of persons expressly named. The expression "foreign force" is reserved exclusively for the "armed forces," but may include non-combatant units.

³ The word "Agreement" will be used for the articles of the Status of Armed Forces of the Brussels Treaty Powers; the word "Draft" for the articles of the draft submitted by the United States Delegation [footnote in original].

<i>Draft</i>	<i>Agreement</i>	<i>Comment</i>
Art. I(b)	Art. 1(b)	Identical.
Art. I(c)	Art. 1(c)	Identical.
Art. I(d)	-----	Entirely new definition of dependents not mentioned in the Agreement.
-----	Art. 1(d)	Not repeated in the draft.
-----	Art. 2	Not repeated in the draft.
Art. II(1)	Art. 3(1)	Identical as regards passport and visa regulations and certain regulations on the registration and control of aliens; the last clause in the draft is new, referring to the problems of permanent residence or domicile.
Art. II(2)	Art. 3(2)	Relating to the documents required in respect of members of a "contingent"—enumeration of documents: different, no reference being made in the draft to the trilingual identity card mentioned in the Agreement.
-----	Art. 3(2)	The last three paragraphs are not repeated in the draft.
Art. III	Art. 4	Changes as regards the issue of driving permits in the receiving State, no tax or test being required.
Art. IV(1)	Art. 5(1)	Similar.
Art. IV(2)	Art. 5(2)	Similar.
-----	Art. 6(1)	Not repeated in the draft.
Art. V(1)	Art. 6(2)	Similar.
Art. V(2)	Art. 6(3)	Identical.
Art. VI(1)	Art. 7(1)	Identical.
Art. VI(2)	Art. 7(2)	Different.

<i>Draft</i>	<i>Agreement</i>	<i>Comment</i>
Art. VI(3)	Art. 7(2)	Different.
Art. VI(4)	-----	Entirely new.
Art. VI(5)	Art. 7(2), last par.	Similar.
Art. VI(6)	-----	Entirely new.
Art. VI(7)	-----	Entirely new.
Art. VI(8)	Art. 7(3)	Similar to the first paragraph of 7(3).
-----	Art. 7(3), 2nd par.	Not repeated in the draft.
-----	Art. 7(4)	Not repeated in the draft.
Art. VI(9), 1st par.	Art. 7(5) (a)	Similar.
Art. VI(9) (a)	Art. 7(5) (b)	First sentence similar; second sentence not repeated.
-----	Art. 7(5) (c)	Not repeated in draft.
Art. VI(9) (b)	Art. 7(5) (d)	Different.
Art. VI(10)	-----	Entirely new.
Art. VII(1)	Art. 8(1), 1st par.	Different.
Art. VII(2)	Art. 8(1), 2nd par.	Different.
-----	Art. 8(2) (a)	Not repeated in draft.
Art. VII(3)	Art. 8(2) (b)	Different.
Art. VII(4)	Art. 8(2) (b)	Different.
Art. VII(5)	Art. 8(3)	Different.
-----	Art. 8(4)	Not repeated in draft.
-----	Art. 8(5)	Not repeated in draft.
-----	Art. 8(6)	Not repeated in draft.
-----	Art. 8(7)	Not repeated in draft.
-----	Art. 9	Not repeated in draft.

<i>Draft</i>	<i>Agreement</i>	<i>Comment</i>
-----	Art. 10	Not repeated in draft.
Art. VIII(1)	Art. 11(1)	Identical, except for specific reference to dependents.
Art. VIII(2)	Art. 11(2)	Similar.
Art. VIII(3)	Art. 11(3)	Similar; slight changes in the last sentence.
Art. VIII(4)	Art. 11(4)	Similar.
Art. VIII(5)	Art. 11(5)	Identical, except for a specific reference to dependents.
Art. VIII(6)	Art. 11(6)	Similar; the Agreement restricts the facilities to the railways.
Art. VIII(7)	Art. 11(7)	Similar.
Art. VIII(8)	Art. 11(8)	Different: the draft provides for certain exemptions from import duties.
Art. VIII(9), 1st par.	Art. 12(1)	Different.
Art. I(a)	Art. 1(a)	Different: last sentence of the Agreement is not repeated in the draft.
Art. I(b)	Art. 1(b)	Similar, except for last sentence.
Art. I(c)	-----	Entirely new.
Art. II	Art. 12(2)	Identical.
Art. X(1)	Art. 13(1), 2nd par.	Similar: in addition provides that custom authorities shall have the right of seizure. The first paragraph is not repeated in the draft.
Art. X(2)	Art. 13(2)	Different.
Art. X(3)	Art. 13(3)	Identical.
Art. X(4)	Art. 13(4)	Similar in the first and second paragraphs; specific reference to dependents; the third paragraph is not repeated in the draft.

<i>Draft</i>	<i>Agreement</i>	<i>Comment</i>
Art. X(5), 1st par.	Art. 13(5), 1st par.	Identical.
Art. X(5) (a)	Art. 13(5) (i)	Identical.
Art. X(5) (b)	Art. 13(5) (ii)	Identical.
Art. X(6)	Art. 13(6)	Identical.
Art. X(7)	Art. 13(7)	Identical.
Art. X(8)	Art. 13(8)	Identical.
Art. XI(1)	Art. 14(1)	Identical.
Art. XI(2)	Art. 14(2)	Identical.
Art. XII(1)	Art. 15(1)	Identical.
Art. XII(2)	Art. 15(2)	Identical.
Art. XII(3)	Art. 15(3), last sentence	Identical: the first sentence is not repeated in the draft.
Art. XIII(1)	Art. 16(1)	Similar.
Art. XIII(2)	Art. 16(2)	Similar, but with specific reference to dependents.
Art. XIV	Art. 17	Difference between the terms "hostilities" and "war"; provides for an interval of sixty days.
Art. XV	Art. 18	Similar: the Agreement provides for recourse to the Brussels Treaty Permanent Commission, which corresponds to the Council Deputies of the Atlantic Pact, whereas the draft envisages recourse to the North Atlantic Council itself.
Art. XVI	Art. 19, last two sentences	Same comment as for the preceding article concerning the Council Deputies. The third sentence is not repeated in the draft.
Art. XVII(1)	Art. 20, first two sentences	Similar: provides that the instruments of ratification shall be deposited with the Government of the United States, instead of with the Secretary-General of the Treaty.

<i>Draft</i>	<i>Agreement</i>	<i>Comment</i>
Art. XVII(2)	Art. 20, last sentence	Similar.
Art. XVII(3)	-----	Entirely new.
Art. XVIII(1-3)	Art. 21(1-2)	Similar.
-----	Annex A, B, C	Not repeated in draft.
Annex A	Annex D	Different.
Annex B	Annex E	Identical.

MS-D(51) 2

**Status of Forces Agreement—Proposed Redraft of Article VI
(6 February 1951) ¹**

Note by the Secretary

The United States Representative has been in consultation with the United Kingdom and French Representatives regarding Article VI, and the three Representatives, without committing their several Governments, propose the following redraft of Article VI as a basis for discussion by the Working Group (Juridical Subcommittee) at the meeting on Thursday, 8 February 1951.

The redraft is substantially a rearrangement of the United States draft, with some amendments suggested by the other Representatives. It omits paragraph 6 of the United States draft with the thought that civil jurisdiction could more properly be handled under Article VII. It also uses the word “forces,” instead of the word “contingent” used in the United States draft, and it does not attempt to cover civilians accompanying the forces, which is to be the subject of further consideration.

ARTICLE VI

1. Subject to the provisions of this Article, the military authorities of the sending State shall have the right to exercise within the receiving State all jurisdiction and control conferred on them by the laws of the sending State over all members of their forces abroad.
2. The military authorities of the sending State shall have exclusive criminal jurisdiction over members of their forces with respect to

¹ Previous reference: Article VI of D-D(51) 23 (23 January 1951). Reference: MS(J)-R(51) 2 (8 February 1951).

offences punishable by the law of the sending State but not by the laws of the receiving State, including offences relating to the security of the sending State, but not to that of the receiving State. A security offence against a particular State shall include

- (a) treason against the State;
- (b) Sabotage, espionage or violations of any law relating to official secrets of that State.

3. It is the duty of the forces of the sending State to respect the laws of the receiving State, and to abstain from any activity inconsistent with the spirit of the present Agreement, and in particular, from any political activity in the receiving State.

4. The authorities of the receiving State shall have jurisdiction over the members of a foreign force with respect to offences committed within the territory of the receiving State and punishable by the law of that State, except that the military authorities of the sending State and the authorities of the receiving State shall have concurrent jurisdiction over the members of a foreign force with respect to offences committed within the territory of a receiving State and punishable by the laws of both States, provided that in the case of the following offences, the military authorities of the sending State shall have the primary right to exercise jurisdiction :

- (a) Offences solely against the property of the sending State, or offences against the person, property or a dependent of another member of the forces of the sending State;
- (b) Offences arising out of any act done in the performance of official duty, or pursuant to a lawful order issued by the competent authorities of the sending State.

In particular cases, the sending State may waive the primary right of criminal jurisdiction by written notice of such waiver delivered to the appropriate authorities of the receiving State as soon as possible.

5. In the case of any other offence in which the military authorities of the sending State and the authorities of the receiving shall have concurrent jurisdiction, the receiving State shall have the primary right to exercise jurisdiction. The authorities of the receiving State shall promptly notify the military authorities of the sending State of the arrest of any member of the forces of the sending State, and if the receiving State decides not to exercise jurisdiction, it shall notify the military authorities of the sending State as soon as practicable.

6. The authorities of the receiving and sending States will assist each other in the arrest of offenders in the territory of the receiving State and in handing them over to the authority which is to exercise jurisdiction in accordance with the above, as well as in the collection of evidence and the carrying out of all necessary investigations, the

seizure and in proper cases handing over of exhibits and all objects connected with the offence.

7. Whenever a member of a foreign force is prosecuted in the courts of a receiving State, he shall be entitled:

- (a) to a speedy and public trial;
- (b) to be informed in advance of trial of the specific charge or charges made against him;
- (c) to be confronted with the witnesses against him;
- (d) to have compulsory process for obtaining witnesses in his favour;
- (e) to defence by a qualified advocate or counsel of his own choice, or failing such choice, appointed by the court to conduct his defence;
- (f) if he considers it necessary, to the services of a competent interpreter;
- (g) to have a representative of his Government present at any stage of his detention or trial, except during the preliminary examination (instruction) or grand jury proceeding.

8. Regularly constituted military units or formations of foreign forces shall have the right to police any camps, establishments or other premises which they have occupied as the result of an agreement with the receiving State, under the following conditions:

- (a) The military police of the units or formations may take all appropriate measures to ensure the maintenance of order on such premises;
- (b) Employment of such military police outside of its premises will be subject to arrangement with the authorities of the receiving State and in liaison with those authorities, where such employment is necessary to maintain discipline and order among the members of such units or formations.

9. Upon the request of the sending State, the receiving State will seek such legislation as the authorities of both States agree is necessary to ensure the adequate security and protection within its territory of installations, equipment, property, records and official information of the sending State, and the punishment of persons who may contravene such laws enacted for that purpose.

10. Notwithstanding the foregoing provisions, in time of hostilities in the North Atlantic area the sending State shall have the right to denounce paragraph 5 of this Article and to have the primary right to exercise criminal jurisdiction over members of its forces committing any offence within a receiving State except a security offence as defined in paragraph 2 committed against the receiving State.

MS-D(51) 3

Status of Forces Agreement—United Kingdom Note on the Definition of “Contingent” in the Draft (7 February 1951) ¹*Civilians (Article I and generally)*

The proposal to widen the definition of an armed force or “contingent” of a sending State so as to include any category of civilians not entitled to wear uniform raises serious difficulties for the following reasons.

It is recognized that a certain number of civilians employed by the sending State normally accompany an armed force of that State and are necessary for its operational efficiency. But such civilians are few in number in relation to the total number of the armed force. They usually move either as individuals or in small parties, and while they are in the receiving State they are not subject to the same close discipline and control as the uniformed members of the force they accompany. It can hardly be urged that, if they are excluded from the definition of the force of a sending State, they would in practice be subject to interference, either when entering, remaining in or departing from a receiving State, to an extent that would prevent them from performing efficiently their official duties.

Moreover, if a limited class of civilians were included in the general definition of a “force,” it would only be possible to identify individuals by means of a certificate, issued by the sending State, to be carried by each entitled person. The duties performed by such civilians are so various in character that it would hardly be possible to specify them in the Agreement. In the case of States whose central administration was unimpaired, the control of issue of personal certificates for such civilians might be satisfactorily maintained. But if the administration of a sending State were under severe stress, even before the outbreak of hostilities, with the result that the machinery for the issue of personal certificates became impaired, there would be a risk that such certificates might be obtained by persons whose presence in the receiving State would imperil the security of that State and of NATO forces for the time being in it.

For the above reasons it is considered that, in order to reach quickly the fullest measure of agreement between Contracting Parties, the definition of a “force” should not be widened to include any category of civilian not entitled to wear uniform.

Nevertheless, the United Kingdom Government are considering

¹ Reference: MS(J)-R(51) 1, par. 5 (8 February 1951).

whether, for the purpose of certain Articles governing fiscal concessions, a limited class of civilians accompanying the armed forces can be covered, provided that a satisfactory definition of the class can be arrived at. A separate definition of the class might have to be devised for each Article affected, as considerations differ according to the kind of concession in view.

MS-D(51) 4

Status of Forces Agreement—United States Redraft of Article VII (9 February 1951) ¹

ARTICLE VII

1. Each Contracting Party waives all claims for damages to any property owned by such Contracting Party and used by its Service Ministries (Army, Navy or Air Force) or its forces, caused by a member of the forces of any other Contracting Party, wherever such claims for damage may arise.

2. No action shall lie against any Contracting Party or any member of its forces for injury or death suffered by any member of the forces of any Contracting Party while in the performance of his official duties. The provisions of this paragraph shall not affect any benefits which the municipal law of any State may provide for members of its forces.

3. Subject to the provisions of the two preceding paragraphs, civil actions brought against a member of the forces of a sending State shall be heard and determined by the courts of the receiving State, except that members of the forces of a sending State shall be immune from the civil jurisdiction of the receiving State in matters arising from the performance of their official duties, and provided that in particular cases such immunity may be waived by the sending State.

4. Claims against members of the forces of a sending State arising out of acts done in the performance of their official duties incident to non-combatant activities, and causing damage to or loss or destruction of the property of private persons in the territory of the receiving State, or the injury or death of individuals therein, shall be settled by the receiving State in accordance with the following provisions:

(a) Claims shall be filed, considered and determined or adjudi-

¹ Previous reference: Article VII of D-D(51) 23 (23 January 1951). Reference: this text was never the subject of formal discussion by the Working Group, having been first superseded by MS-D(51) 4(R) (12 February 1951).

cated in accordance with the laws and regulations of the receiving State with respect to claims arising from the activities of its own armed forces. The receiving State may settle any such claim in its own currency, and payment of the amount agreed upon shall be made by the receiving State. Such payment, or the final adjudication of the competent tribunals of the receiving State denying payment, shall be binding and conclusive upon the claimant and the Contracting Parties. The Government of the receiving State will ensure the defence against claims arising under this Article.

- (b) The cost incurred by the Contracting Parties in satisfying claims pursuant to the preceding sub-paragraph shall be taken into full account in the assessment from time to time of each nation's contributions to the security of the North Atlantic area, with a view to distributing as equitably as possible the total burden of defence measures under North Atlantic Treaty plans. In the meantime, if the cost incurred by any particular receiving State in the settlement of claims against the forces of any sending State becomes unduly burdensome or disproportionate, either because of the smallness of size of the receiving State, or for any other reason, such cost may, at the request of the receiving State, become the subject of bilateral negotiation between the two Parties for a contribution by the sending State to the payment of such cost.

5. Claims against members of the forces of a sending State arising out of tortious acts or omissions not relating to the performance of their official duties may be dealt with in the following manner. The Government of the receiving State may consider the claim and assess compensation to the claimant in a fair and just manner, taking into account all the circumstances of the case, including the conduct of the injured person, and may prepare a report on the matter. The report may be delivered to the authorities of the sending State, who will then decide without delay whether they will offer an *ex gratia* payment, and if so, of what amount. If an offer of *ex gratia* payment is made, and accepted by the claimant in full satisfaction of his claim, the authorities of the sending State will make the payment themselves and inform the Government of the receiving State of their decision and of the sum paid. Nothing in this paragraph shall affect the jurisdiction of the courts of the receiving State to entertain an action against a member of the forces of a sending State when unless there has been payment in full satisfaction of the claim.

MS-D(51) 4(R)**Status of Forces Agreement—Revised United States Redraft of Article VII (12 February 1951) ¹****ARTICLE VII**

1. Each Contracting Party waives all claims for damages to any property owned by such Contracting Party and used by its Service Ministries (and, sea or air armed services) including their public vessels, caused by a member of the armed services of any other Contracting Party or by the operation of a public vessel of any other Contracting Party, wherever such claims for damage may arise. The representations of the Government involved as to what vessels are its public vessels and as to what constitutes its public property shall be conclusive.

2. No action shall lie against any Contracting Party or any member of its armed services for injury or death suffered by any member of the armed services of any Contracting Party while in the performance of his official duties. The provisions of this paragraph shall not affect any benefits which the municipal law of any State may provide for members of its armed services.

3. Subject to the provisions of the two preceding paragraphs, civil actions brought against a member of the force or civilian component of a sending State shall be heard and determined by the courts of the receiving State, except that members of the force or of a civilian component of a sending State shall be immune from the civil jurisdiction of the receiving State in matters arising from the performance of their official duties, and provided that in particular cases such immunity may be waived by the sending State.

4. Claims against members of the forces of a sending State arising out of acts done in performance of their official duties incident to non-combatant activities, and causing damage to or loss or destruction of the property of private persons in the territory of the receiving State, or the injury or death of individuals therein, shall be settled by the receiving State in accordance with the following provisions:

¹ Previous references: D-D(51) 23, Article VII (23 January 1951); MS-D(51) 4 (9 February 1951). References: MS(F)-R(51) 1-2 (13 February 1951); MS(J)-R(51) 3 (15 February 1951).

- (a) Claims shall be filed, considered and determined or adjudicated in accordance with the laws and regulations of the receiving State with respect to claims arising from the activities of its own armed forces. The receiving State may settle any such claim in its currency, and payment of the amount agreed upon shall be made by the receiving State. Such payment, or the final adjudication of the competent tribunals of the receiving State denying payment, shall be binding and conclusive upon the claimant and the Contracting Parties. The Government of the sending State and the receiving State will cooperate in the procurement of evidence for a fair hearing and disposition of claims arising under this Article.
- (b) The cost incurred by the Contracting Parties in satisfying claims pursuant to the preceding sub-paragraph shall be taken into full account in the assessment from time to time of each nation's contribution to the security of the North Atlantic area, with a view to distributing as equitably as possible the total burden of defence measures under North Atlantic Treaty plans. In the meantime, if the cost incurred by any particular receiving State in the settlement of claims against the forces of any sending State becomes unduly burdensome or disproportionate, such cost may, at the request of the receiving State, become the subject of bilateral negotiation between the two Parties for a contribution by the sending State to the payment of such cost.

5. Claims against members of the force of a sending State arising out of tortious acts or omissions not relating to the performance of their official duties may be dealt with in the following manner. The Government of the receiving State may consider the claim and assess compensation to the claimant in a fair and just manner, taking into account all the circumstances of the case, including the conduct of the injured person, and may prepare a report on the matter. The report may be delivered to the authorities of the sending State, who will then decide without delay whether they will offer an *ex gratia* payment, and if so, of what amount. If an offer of *ex gratia* payment is made, and accepted by the claimant in full satisfaction of his claim, the authorities of the sending State will make the payment themselves and inform the Government of the receiving State of their decision and of the sum paid. Nothing in this paragraph shall affect the jurisdiction of the courts of the receiving State to entertain an action against a member of the force of a sending State unless and until there has been payment in full satisfaction of the claim.

MS-D(51) 5

Status of Forces Agreement—Redraft of Articles I to VI (12 February 1951) ¹**PREAMBLE**

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949, desiring to establish the status of the force of one Party maintained in the territory of another Party;

Have agreed as follows:

ARTICLE I

In this Agreement the expression:

- (a) "force" means any personnel belonging to the land, sea or air armed services of one Contracting Party, maintained by it in the territory of another Contracting Party;
- (b) "civilian component" means any civilian personnel accompanying a force who are in the employ of an armed service of a Contracting Party, and who are not nationals of, or ordinarily resident in, the State in which the force is maintained;
- (c) "dependent" means the spouse of a member of a force or of a civilian component, or a child of such member depending on him or her for support;
- (d) "sending State" means the Contracting Party maintaining the force;
- (e) "receiving State" means the Contracting Party in the territory of which the force is maintained, whether it be stationed there or passing in transit;
- (f) "military authorities of the sending State" means those authorities of a sending State who are empowered by its law to enforce the military law of that State with respect to members of its forces or civilian components.

ARTICLE II

1. On the conditions specified in paragraph 2 of this Article, and subject to procedures established by the receiving State relating to entry and departure, the members of a force or civilian component shall be exempt from passport and visa regulations and immigration

¹ Previous references: D-D(51) 23, Articles I-VI (23 January 1951); MS-D(51) 2, Article VI (6 February 1951). References: MS(F)-R(51) 1-6 (13-16 February 1951); MS(J)-R(51) 1-5 (8-17 February 1951); in all of these Summary Records, the new definition of "force" and "civilian component" in MS-D(51) 5, Article I, forms the basis for discussion of other Articles.

inspection on entering or leaving the territory of a receiving State, and shall also be exempt from the regulations on the registration and control of aliens, but shall not be considered as acquiring any rights of permanent residence or domicile in the territories of the receiving State.

2. The following documents only will be required in respect of members of a force or civilian component. They must be presented on demand:

- (a) personal government identity card, showing name (surname first), date of birth, rank and number (if any), service, and photograph, and in the case of a member of a civilian component, also the place of birth and the ordinary residence and the nationality of the member;
- (b) individual or collective movement order, in the language of the sending State, and in the English and French languages, issued by an appropriate agency of the sending State, certifying to the status of the individual as a member of a force or of a civilian component, or to the status of an organized unit as a force or civilian component, and to the movement ordered, which may be countersigned by an appropriate representative of the receiving State.

ARTICLE III

The receiving State will accept as valid, without a driving test or fee, the driving permit or licence or military driving permit issued by the sending State or a sub-division thereof to a member of a force or of a civilian component; or will, to the extent that it is bound to the sending State by the provisions of the 1949 Geneva Convention on Road Traffic, apply those provisions in recognition of a driving permit issued by the sending State or sub-division thereof to a member of its force or civilian component. In lieu of the foregoing the receiving State or sub-division thereof may issue a driving permit or licence to any member of a force or civilian component who holds a driving permit or licence issued by the sending State or a sub-division thereof, provided that no driving test is required.

ARTICLE IV

1. Members of a force will normally wear uniform. Regularly constituted units or formations of a force must be in uniform when crossing a frontier.

2. Service vehicles of a force shall carry, in addition to their registration number, a distinctive nationality mark.

ARTICLE V

1. Members of a force may carry arms, on condition that it is authorised by their orders.

2. In any case, officers of a force are always authorised to retain possession of their regulation personal weapons.

ARTICLE VI

1. Subject to the provisions of this Article, the military authorities of the sending State shall have the right to exercise within the receiving State all jurisdiction and control conferred on them by the laws of the sending State over all persons subject to the military law of that State.

2. The military authorities of the sending State shall have exclusive jurisdiction over members of their forces and of civilian components who are subject to the military laws of the sending State with respect to offences punishable by the law of that State but not by the law of the receiving State, including offences relating to the security of the sending State but not to that of the receiving State. A security offence against a particular State shall include:

(a) treason against the State;

(b) sabotage, espionage, or violation of any law relating to official secrets of that State.

3. It is the duty of the forces and civilian components of the sending State to respect the law of the receiving State, and to abstain from any activity inconsistent with the spirit of the present Agreement and, in particular, from any political activity in the receiving State.

4. The authorities of the receiving State shall have jurisdiction over the members of a force and of a civilian component with respect to offences committed within the territory of the receiving State and punishable by the law of that State, except that the military authorities of the sending State and the authorities of the receiving State shall have concurrent jurisdiction over the members of a force and of a civilian component subject to the military law of the sending State with respect to offences committed within the territory of a receiving State and punishable by the laws of both States, provided that in the cases of the following offences, the military authorities of the sending State shall have the primary right to exercise jurisdiction:

(a) Offences solely against the property of the sending State, or offences against the person, property or dependent of another member of the forces or civilian components of the sending State;

- (b) Offences arising out of any act done in the performance of official duty, or pursuant to a lawful order issued by the competent authorities of the sending State.

In particular cases, the sending State may waive the primary right to exercise jurisdiction by written notice of such waiver delivered to the appropriate authorities of the receiving State as soon as practicable.

5. In the case of any other offence in which the military authorities of the sending State and the authorities of the receiving State shall have concurrent jurisdiction, the receiving State shall have the primary right to exercise jurisdiction. The authorities of the receiving State shall promptly notify the military authorities of the sending State of the arrest of any member of the force or civilian component of the sending State, and if the receiving State decides not to exercise jurisdiction, it shall notify the military authorities of the sending State as soon as practicable.

6. The authorities of the receiving and sending States will assist each other in the arrest of offenders in the territory of the receiving State and in handing them over to the authority which is to exercise jurisdiction in accordance with the above, as well as in the collection of evidence and the carrying out of all necessary investigations, the seizure and in proper cases handing over [of] exhibits and all objects connected with the offence.

7. Whenever a member of a force or civilian component is prosecuted under the jurisdiction of a receiving State, he shall be entitled:

- (a) To a prompt and speedy trial;
- (b) To be informed in advance of trial of the specific charge or charges against him;
- (c) To be confronted with the witnesses against him;
- (d) To have compulsory process for obtaining witnesses in his favour;
- (e) To defence by a qualified advocate or counsel of his own choice, or failing such choice, appointed to conduct his defence;
- (f) If he considers it necessary, to the service of a competent interpreter;
- (g) To have a representative of his Government present at any stage of his detention or trial, except during the preliminary examination or grand jury proceeding.

8. Regularly constituted military units or formations of forces shall have the right to police any camps, establishments or other

premises which they have occupied as the result of an agreement with the receiving State, under the following conditions:

- (a) The military police of the units or formations may take all appropriate measures to insure the maintenance of order on such premises;
- (b) Employment of such military police outside of its premises will be subject to arrangement with the authorities of the receiving State and in liaison with those authorities, where such employment is necessary to maintain discipline and order among the members of such units or formations.

9. The Contracting Parties will seek such legislation as may be necessary to insure the adequate security and protection within their respective territories of installations, equipment, property, records and official information of other Contracting Parties, and the punishment of persons who may contravene such laws enacted for that purpose.

10. The provisions of this Article are without prejudice to any special arrangements which may be made to meet the requirements of a sending State with respect to the exercise of its jurisdiction in time of hostilities in the North Atlantic Area over offences committed by persons who are subject to its military laws and who are within the receiving State.

ADDENDUM ²

Article VI: New Paragraph (6), submitted by the United States Delegation, to be inserted after existing paragraph 5.

Where a primary right of jurisdiction has been exercised by the authorities of a Contracting Party, a trial of the accused by such authorities shall preclude his subsequent trial for the same offence by the authorities of another Contracting Party.

MS-D(51) 6

Status of Forces Agreement—French Proposal on Distribution of the Financial Burden under Article VII, paragraph 4(b) (14 February 1951) ¹

- (b) The costs incurred by one of the Contracting Parties in satisfying claims pursuant to sub-paragraph (a) shall be distributed as follows:

- (i) Where a sending State alone is involved in the claim,

² Dated 15 February 1951.

¹ Previous reference: MS-D(51) 4(R) (12 February 1951). References: MS(J)-R(51) 7-8 (22-23 February 1951).

the claim and sundry charges shall be distributed in the proportion of 25% chargeable to the receiving State and 75% chargeable to the sending State.

- (ii) Where several States are simultaneously involved in the same claim, the claim and sundry charges shall be distributed among the receiving State and the various sending States involved, each of those countries bearing the same burden.
- (iii) Every claim submitted to the receiving State shall be immediately communicated to the sending States concerned, together with full particulars and a proposed distribution on a percentage basis in conformity with sub-paragraph (i) and (ii) above. In default of a reply within two months, the proposal shall be regarded as accepted.
- (iv) In the event of disagreement between the receiving State and certain sending States on the application of sub-paragraph (i) and (ii) above, as in cases where it cannot be clearly established which State is the responsible party, SHAPE shall arbitrate in the matter, without right of appeal.
- (v) Every half-year, a statement of the sum paid by the receiving State in the course of the half-year period, in respect of every case regarding which the proposed distribution on a percentage basis has been accepted, shall be sent to the sending States concerned, together with a request for reimbursement. Such reimbursement shall be made within the shortest possible time, the amount being calculated in the currency of the sending State, taking into account the rate of exchange on the date on which payment of the sums to be reimbursed will have actually taken place.

MS-D(51) 7

Status of Forces Agreement—United Kingdom Amendments to Articles IX and X (14 February 1951)¹

ARTICLE IX

1. In order that Article IX should only contain clauses relating to the stay in a receiving State of foreign forces and civilian

¹ The paragraph numbers have been added by the editor. Previous reference: D-D(51) 23 (23 January 1951). Aference: MS(F)-R(51) 5 (15 February 1951).

components and their dependents, and not to their entry to and exit from the receiving State, paragraph 1(b) should be deleted and a new paragraph 4 added, which should read as follows:

Official vehicles shall be exempt from any tax payable in respect of the use of vehicles on public roads. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of the roads by private vehicles.

ARTICLE X

2. In paragraph 4, delete the words "Provisions, supplies, . . . payable on importation," and substitute:

The authorities of a force may import free of customs duties and all other duties and taxes payable on importation, provisions, supplies and other goods for the exclusive use of that force.

3. Delete the words "A specimen of this certificate is given in Appendix B."

4. Renumber existing paragraph 4 as 4(a), and add new subparagraphs as follows:

- (b) Members of a force or of a civilian component may at the time of first arrival to take up duty in the receiving State import free of duty their personal effects and furniture then in use. Any new furniture may be admitted temporarily free of duty for the term of duty of the persons concerned. They may, on the termination of their duty in the receiving State, or before that date, export free of duty their personal effects and furniture then in use.
- (c) Members of a force or of a civilian component may import temporarily free of duty their private motor vehicles for the personal use of themselves and their dependents.

MS-D(51) 8

Status of Forces Agreement—Belgian Note on Article VI of the Draft (Traffic Accidents) (16 February 1951)¹

Road Accidents

1. In the terms of paragraph 4 of Article VI, the members of foreign forces are subject to the jurisdiction of the authorities of the receiving State with respect to offenses committed within

¹ Previous reference: MS-D(51) 5, Article VI (12 February 1951). Reference: MS(J)-R(51) 4 (16 February 1951).

the territory of the receiving State and punishable by the law of that State, except that the military authorities of the sending State and the authorities of the receiving State shall have concurrent jurisdiction over the members of the foreign force with respect to offenses committed within the territory of a receiving State and punishable by the laws of both States, provided that the military authorities of the sending State shall have the primary right to exercise jurisdiction in the case of offenses arising out of any act done in the performance of official duty.

2. The attention of the Belgian Delegation has been drawn to the effects of this provision in the case of road accidents.

3. The Belgian Delegation considers that it may be of use to the Working Group to set out the principal points that have occurred to them on this subject.

4. Road accidents can be classified into two major categories: those which have caused only material damage, and those in which persons have been injured.

5. In the first case, as the accident has only caused material damage, the only legal provision which will have been violated in most legislative systems is a provision of the road regulations. Most penal codes do not render punishable involuntary damage to the personal estate of another party.

6. In the majority of countries, therefore, an accident of this nature is regarded as a purely domestic offense, punishable only under the law of the receiving State.

7. Thus, the judicial authorities of the receiving State shall exercise the exclusive right of jurisdiction.

8. The only exception to this rule is when, in the case of the occupation of foreign territory, the occupying authority, by virtue of the legislative power to which it is entitled under international law, issues a number of domestic decrees, by means of an ordinance applying to its armed forces. But here we have a situation in which there should be no question of the occupation of one country by another.

9. The second case, in which the accident has caused injury or death, is different. In addition to the violation of the road regulations, there will be the offense of unintentional assault and battery which all legislations recognize.

10. With regard to this last offense, the authorities of the sending State may have the primary right to exercise jurisdiction. The decision as to which country should take cognizance of the accident is thus made dependent on the character of the damages which the accident has caused,—the material damage on the one

hand, the injury on the other. This means that account is taken of a fortuitous circumstance which does not appear to be sufficiently determinative to justify such an effect.

11. Those are not all the difficulties which arise.

12. If we only take the case of the accident involving personal injury or death, we see that we nearly always have a conjunction of offenses, since one and the same fact is, on one hand, a violation of a set of road regulations and will in the majority of cases only be punishable by the law of the receiving State, and, on the other hand, an offense against common law—unintentional assault and battery—which is punishable by both legislations.

13. The authorities of the receiving State will have to take cognizance of the first offense, and the authorities of the sending State will have the primary right to exercise jurisdiction with respect to the second.

14. It is difficult to imagine, in a case of such close connection as the ideal conjunction of offenses, how proceedings can be instituted before two courts.

15. It must not be forgotten that this [connection] is closer than in any other field, for the offense which is the essential factor in the assault and battery is usually the violation of the road regulations. This last offense is at the root of the first. It is impossible to dissociate them.

16. There is another difficulty. In the majority of road accidents it might be said that two persons may be charged at first, and the one who is in fact the victim will frequently only appear to be so after a very detailed enquiry and even, in many cases, only after judgment has been given.

17. The victim himself,—for an individual who has suffered misfortune is often called a victim,—will perhaps be guilty for the same reason as the individual who has caused the accident. Cases of shared responsibility often arise.

18. In the case of road accidents, we do not have an active party and a passive party as in cases of theft, where it is not very difficult to distinguish between the robber and the robbed. Both parties are active, and it is often difficult to decide which of the two is responsible for the offense. It may even be that both are guilty.

19. In the case of one vehicle grazing the side of another when overtaking, is the guilty party the driver who was overtaken and did not keep close enough to the right, or the overtaking driver who did not go far enough out to the left (vice-versa in the United Kingdom)?

20. How is it possible to bring this problem, which concerns an indivisible whole, before two courts for judgment?

21. Such a procedure appears neither very reasonable nor very practical. In addition to these considerations, it must be borne in mind that it will very often be difficult to decide in these circumstances whether the accident did or did not arise out of the performance of official duty by members of an armed force, and that there can be no question of an extrajudicial authority giving a judge's verdict.

22. It is finally in the interests of the victim of the offense, as also of the receiving State which has to meet the claim for compensation, that in every case in which a third party is injured the courts of the receiving State should carry out the enquiry and collect the evidence required to enable judgment to be given with respect to the [civil]² interests involved.

23. In conclusion, the Belgian Delegation considers that the provisions of paragraph 4(b) of Article VI should not apply in the case of road accidents.

MS-D(51) 9

Status of Forces Agreement—Revised Draft of Articles VIII, X, XI, XII and XIII (16 February 1951)¹

ARTICLE VIII

1. Members of a force or of a civilian component and their dependents may purchase locally goods necessary for their own consumption and such services as they need under the same conditions as the nationals of the receiving State.

2. Goods purchased locally which are required for the subsistence of a force or a civilian component will normally be purchased through the competent departments which purchase such goods for armed services of the receiving State. In order to avoid such purchases having any adverse effect on the economy of the receiving State, the competent authorities of this State will indicate, when necessary, any articles the purchase of which should be restricted or forbidden.

3. After agreement between the authorised representatives of

² Original text: "civilian."

¹ Previous reference: D-D(51) 23, Articles VIII, X-XIII (23 January 1951). Reference: MS(F)-R(51) 6 (16 February 1951).

the sending and receiving States, the competent authorities of the receiving State will assume sole responsibility for making suitable arrangements to make available to a force or a civilian component the buildings and grounds, as well as the facilities and services connected therewith. These agreements and arrangements will be, as far as possible, in accordance with the regulations governing the accommodation and billeting of similar personnel of the receiving State. In the absence of a specific contract the laws of the receiving State shall determine the rights and obligations arising out of the occupation or use of the buildings, grounds or facilities.

4. Local civilian labour requirements of a force or a civilian component will be satisfied in the same way as those of the comparable authorities of the receiving State and with the assistance of those authorities through the employment exchanges. The conditions of employment and work, in particular wages, supplementary payments and conditions for the protection of workers shall be those laid down by the legislation of the receiving State. Such civilian workers employed by a force or civilian component shall not be regarded for any purpose as being members of that force.

5. When a force or civilian component has at the place where it is stationed inadequate medical or dental facilities, its members and their dependents may receive medical and dental care, including hospitalisation, under the same conditions as comparable personnel of the receiving State.

6. The receiving State will give the most favourable consideration to requests for the grant to members of a force or a civilian component of travelling facilities and concessions with regard to fares. These facilities and concessions will be the subject of special arrangements to be made between the Governments concerned.

7. Subject to any general or particular financial arrangements between the Parties, payment in local currency for goods, accommodation and services furnished under paragraphs 2, 3, 4, 5, and, if necessary, 6, will be made promptly by the authorities of the force or a civilian component.

8. A force or its civilian component or members thereof shall not by reason of the Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the receiving State.

ARTICLE X

1. Save as provided expressly to the contrary in this Agreement, members of a force and civilian component are subject to the laws

and regulations administered by the customs authorities of the receiving State. In particular the customs authorities of the receiving State shall have the right, under the general conditions laid down by the laws and regulations of the receiving State, to search members of a force or civilian component and their dependents and to examine their luggage and vehicles, and seize articles pursuant to such laws and regulations.

2. The temporary importation and the re-exportation of service vehicles shall be authorised free of duty on presentation of a triptyque in the form shown in Appendix A. These vehicles shall be exempt from any tax payable in respect of the use of vehicles on the roads.

3. Official documents under official seal will not be subject to customs inspection. Couriers carrying these documents, whatever their status, must be in possession of an individual movement order, issued in accordance with Article II. This movement order will show the number of despatches carried and certify that they contain only official documents.

4. The authorities of a force may import free of duty the equipment and reasonable quantities of provisions, supplies and other goods for the exclusive use of that force. This duty-free importation shall be subject to the deposit, at the customs office, together with the customs documents, of a certificate signed by an official authorised for that purpose. The list of the officials authorised to sign the certificates, as well as specimens of their signatures and the stamps used, shall be sent to the customs administration of the receiving State.

5. Members of a force or of a civilian component may at the time of first arrival to take up service in the receiving State import free of duty their personal effects and furniture then in use. Any new furniture may be admitted temporarily free of duty for the term of service of the persons concerned. They may on the termination of their service in the receiving State, or before that date, export free of duty their personal effects and furniture then in use.

6. Members of a force or civilian component may import temporarily free of duty their private motor vehicles for the personal use of themselves and their dependents. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of the roads by private vehicles.

7. Imports made by the authorities of a force other than for the exclusive use of their force, and imports, other than those dealt with in paragraphs 5 and 6 of this Article, effected by members of a force or civilian component are not, by reason of this

Article, entitled to any exemption from duty or other conditions.

8. Goods which have been imported duty-free under paragraph 4 above:

- (a) can be re-exported freely provided that a certificate, issued in accordance with paragraph 4 above, is presented to the customs office: the customs authorities, however, may verify that goods re-exported are as described in the certificate and have in fact been imported under the conditions of paragraph 4.
- (b) cannot normally be disposed of in the receiving State by way of either sale or gift: however, in particular cases such disposal may be authorised on conditions imposed by the customs authorities (for instance on payment of duty and tax and compliance with the requirements of the controls of trade and exchange).

9. Goods purchased in the receiving State can only be exported therefrom in accordance with the regulations in force in the receiving State.

10. Special arrangements for crossing frontiers shall be granted by the customs authorities to regularly constituted units or formations, provided that the customs authorities concerned have been duly notified in advance.

11. Special arrangements shall be made by the receiving State so that fuel, oil and lubricants for use in service vehicles, aircraft and vessels of a force or civilian component may be delivered free of all duties and taxes.

12. In this Article "duty" means customs duties and all other duties and taxes payable on importation or exportation, as the case may be.

ARTICLE XI

1. The customs or fiscal authorities of the receiving State may as a condition of the grant of any customs or fiscal exemption or concession provided for in this Agreement, require such conditions to be observed as they may deem necessary to prevent abuse.

2. These authorities may refuse any exemption provided for by this Agreement in respect of the importation into the receiving State of articles grown, produced or manufactured in that State which have been exported therefrom without payment of, or upon repayment of, taxes or duties which would have been chargeable but for such exportation. Goods removed from a customs warehouse shall be deemed to be imported if they were regarded as having been exported by reason of being deposited in the warehouse.

ARTICLE XII

1. In order to prevent offences against customs and fiscal laws and regulations of a receiving State, the customs and fiscal authorities of the receiving State and the authorities of the sending State will afford each other mutual assistance in the conduct of enquiries and the collection of evidence.

2. The authorities of a force will render all assistance within their power to ensure that articles liable to seizure by or on behalf of the customs or fiscal authorities of the receiving State are handed to those authorities.

3. The authorities of a force will render all assistance within its power to ensure the payment of duties, taxes and penalties payable by members of the force or civilian component and their dependents.

4. Service vehicles and articles belonging to a force seized in connexion with an offence against the customs and fiscal laws and regulations will be handed over to the appropriate authorities of the force concerned.

ARTICLE XIII

1. Members of a force and civilian component shall remain subject to the foreign exchange regulations of the sending State and are also subject to the regulations of the receiving State.

2. The foreign exchange authorities of the sending and receiving States may issue special regulations applicable to a force or civilian component.

[There follows an Appendix, identical with the Appendix in the final version of the Agreement. This is the "Appendix A" which is referred to in Article X, par. 2, *supra*. There is no Appendix B.]

MS-D(51) 10

Status of Forces Agreement—Norwegian Note on the Death Penalty under Article VI of the Draft (16 February 1951) ¹

The Death Penalty

The criminal jurisdiction of a sending State over members of its armed forces in the territory of a receiving State, which is provided for in Article VI, par. 2 and 4, of the revised draft Agreement, raises a question of particular importance to the Norwegian Government. It concerns the possibility that the death penalty may be applied by foreign military authorities in Norway. In the event that Norway becomes a receiving State, nothing in the draft Agreement will prevent the visiting force from pronounc-

¹ Previous reference: MS-D(51) 5, Article VI (12 February 1951). Reference: MS(J)-R(51) 4 (16 February 1951).

ing and carrying out death sentences against members of the force or civilian components who are subject to military law. Instances of this kind may very well occur, especially in cases of murder and treason. Should such a thing happen in peacetime, it would certainly be very repugnant to general feelings in Norway. Capital punishment was formally abolished in Norway with respect to civil crimes about 50 years ago, and the last execution in peacetime took place as long ago as 1875. The death penalty is maintained in the Norwegian military criminal code (the War Articles), but it can only be applied in war-time or under certain emergency conditions which may be assimilated to wartime. Public opinion and the Legislative Assembly are decidedly hostile to capital punishment except as an ultimate measure of national self-defence. Under these circumstances, the Norwegian Government would appreciate the introduction in the Agreement of a reservation with regard to the execution of death sentences. Other countries, represented on the committee, which have abolished capital punishment, may possibly be inclined to take the same view. It may be recalled that a similar question was raised in the United Kingdom in the autumn of 1940 when the Allied Forces Bill was passed. On that occasion the difficulty was solved, at least so far as regards Norway, by an informal exchange of letters according to which all death sentences should be reported to the appropriate British Government Department for the Service concerned. If the British authorities felt bound to recommend that the sentence should be reduced in severity, so as to bring it into harmony with the law or custom of the United Kingdom as regards British forces, it was understood that the Norwegian Government would take the necessary steps to commute the sentence.

A reservation as mentioned above may be inserted in the revised draft of Article VI, paragraph 1, by adding the following words:

"The execution of death sentences shall, however, be subject to approval by the receiving State, which can refuse its approval if its own legislation does not provide for capital punishment in similar cases."

MS-D(51) 11

Status of Forces Agreement—Revised Text (Articles I-VII, IX, XI-XIV) of the Draft (19 February 1951) ¹

Note by the Secretary

The members of the Working Group on the Status of the Armed

¹ Previous references: for Articles I-VII, *supra*: MS-D(51) 5 (12 February 1951); for Articles IX and XI-XIV, *supra*: MS-D(51) 9 (16 February 1951).

Forces of the North Atlantic Treaty countries will find attached the amended text of Articles I-VII, IX, and XI-XIV, as well as that of Appendix A. As soon as the Subcommittees have finished their work, Delegations will receive the texts of those Articles which do not appear in the present version; these Articles will be published under the same document number.²

In order to avoid all confusion, the table below gives the number of each Article in the present edition and also the corresponding numbers in previous editions. This renumbering has been made necessary by the addition of a new Article II, which was formerly part of Article VI.

(1) Numbering in MS-D(51) 11	(2) Previous numbering	(3) Documents in which the numbering listed in column (2) is used
Preamble	Preamble	MS-D(51) 5
I	I	MS-D(51) 5
II	VI, par. 3	MS-D(51) 5
III	II	MS-D(51) 5
IV	III	MS-D(51) 5
V	IV	MS-D(51) 5
VI	V	MS-D(51) 5

² The two Articles referred to (Articles VIII and X under the new numbering) were finally published as Addenda to MS-D(51) 11(R), on 22 February 1951. They have been inserted by the editor in the text of MS-D(51) 11(R).

(1)	(2)	(3)
Numbering in MS-D(51)11	Previous numbering	Documents in which the numbering listed in column (2) is used
VII	VI	MS-D(51) 5
VIII ³	VII	MS-D(51) 4 (Revise)
IX	VIII	MS-D(51) 9
X ³	IX	MS-D(51) 9
XI	X	MS-D(51) 9
XII	XI	MS-D(51) 9
XIII	XII	MS-D(51) 9
XIV	XIII	MS-D(51) 9

PREAMBLE

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949, desiring to establish the status of the forces of one Party maintained in the territory of another Party;

Have agreed as follows:

ARTICLE I

In this Agreement the expression—

- (a) “force” means any personnel belonging to the land, sea or air armed services of one Contracting Party maintained by it in the territory of another Contracting Party;
- (b) “civilian component” means any civilian personnel accompanying a force who are in the employ of an armed service of a Contracting Party, and who are not nationals of, nor ordinarily resident in, the State in which the force is maintained;
- (c) “dependent” means the spouse of a member of a force or of a civilian component, or a child of such member depending on him or her for support;
- (d) “sending State” means the Contracting Party maintaining the force;

³ This Article will be published later. [Footnote in original text; see note 2, *supra*].

- (e) "receiving State" means the Contracting Party in the territory of which the force is maintained, whether it be stationed there or passing in transit;
- (f) "military authorities of the sending State" means those authorities of a sending State who are empowered by its law to enforce the military law of that State with respect to members of its forces or civilian components.

ARTICLE II

It is the duty of the forces and civilian components of the sending State and their dependents to respect the law of the receiving State, and to abstain from any activity inconsistent with the spirit of the present Agreement, and in particular, from any political activity in the receiving State. It is also the duty of the authorities of the sending State to take necessary measures to that end.

ARTICLE III

1. On the conditions specified in paragraph 2 of this Article, and subject to procedures established by the receiving State relating to entry and departure, the members of a force or civilian component shall be exempt from passport and visa regulations and immigration inspection on entering or leaving the territory of a receiving State, and shall also be exempt from the regulations on the registration and control of aliens, but shall not be considered as acquiring any rights of permanent residence or domicile in the territories of the receiving State.

2. The following documents only will be required in respect of members of a force or civilian component. They must be presented on demand:

- (a) personal government identity card, showing name (surname first), date of birth, rank and number (if any), service, and photograph, and in the case of a member of a civilian component, also the place of birth and the ordinary residence and the nationality of the member;
- (b) individual or collective movement order, in the language of the sending State, and in the English and French languages, issued by an appropriate agency of the sending State, certifying to the status of the individual as a member of a force or of a civilian component, or to the status of an organised unit as a force or civilian component, and to the movement ordered, which may be countersigned by an appropriate representative of the receiving State.

ARTICLE IV

The receiving State will accept as valid, without a driving test or fee, the driving permit or licence or military driving permit issued by the sending State or a sub-division thereof [to] a member of a force or of a civilian component; or will, to the extent that it is bound to the sending State by the provisions of the 1949 Geneva Convention on Road Traffic, apply those provisions in recognition of a driving permit issued by the sending State or sub-division thereof to a member of its force or civilian component. In lieu of the foregoing, the receiving State or sub-division thereof may issue a driving permit or licence to any member of a force or civilian component who holds a driving permit or licence issued by the sending State or a sub-division thereof, provided that no driving test is required.

ARTICLE V

1. Members of a force will normally wear uniform. Regularly constituted units or formations of a force must be in uniform when crossing a frontier.

2. Service vehicles of a force shall carry, in addition to their registration number, a distinctive nationality mark.

ARTICLE VI

1. Members of a force may carry arms, on condition that it is authorised by their orders.

2. In any case, officers of a force are always authorised to retain possession of their regulation personal weapons.

ARTICLE VII

1. Subject to the provisions of this Article, the military authorities of the sending State shall have the right to exercise within the receiving State all jurisdiction and control conferred on them by the laws of the sending State over all persons subject to the military law of that State. Death sentences, however, shall not be carried out in the receiving State if the legislation of the receiving State does not provide for such punishment in similar cases.

2. The military authorities of the sending State shall have exclusive jurisdiction over members of their forces and of civilian components who are subject to the military law of the sending State with respect to offences relating to the security of the sending State, but not to that of the receiving State, and to all other offences punishable by the law of that State but not by the law of the receiving State.

A security offence against a particular State shall include:

- (a) treason against that State;
- (b) sabotage, espionage, or violation of any law relating to official secrets of that State, or secrets relating to the national defence of that State.

3. The authorities of the receiving State shall have jurisdiction over the members of a force and of a civilian component with respect to offences committed within the territory of the receiving State and punishable by the law of that State, except that the military authorities of the sending State and the authorities of the receiving State shall have concurrent jurisdiction over the members of a force and of a civilian component subject to the military law of the sending State with respect to offences committed within the territory of a receiving State and punishable by the law of both States, provided that, in the case of the following offences, the military authorities of the sending State shall have the primary right to exercise jurisdiction:

- (a) offences solely against the property or the security of the sending State, or offences solely against the person, property or a dependent of another member of the forces or civilian component of the sending State;
- (b) offences arising out of any act done in the performance of official duty or pursuant to a lawful order issued by the competent authorities of the sending State.

In particular cases, the sending State may waive the primary right to exercise jurisdiction by written notice of such waiver delivered to the appropriate authorities of the receiving State as soon as practicable. The sending State will give sympathetic consideration to a request for waiver in cases which the receiving State considers to be of particular importance.

4. In the case of any other offence in which the military authorities of the sending State and the authorities of the receiving State shall have concurrent jurisdiction, the receiving State shall have the primary right to exercise jurisdiction. The authorities of the receiving State shall promptly notify the military authorities of the sending State of the arrest of any member of the force or civilian component of the sending State, and if the receiving State decides not to exercise jurisdiction, it shall notify the military authorities of the sending State as soon as practicable.

5. Where an accused has been tried by the authorities of one Contracting Party and has been acquitted, or has been convicted and is serving or has served his sentence, he may not be tried again for the same offence within the territory of that Contracting Party by the authorities of another Contracting Party.

6. The authorities of the receiving and sending States will assist each other in the arrest of offenders in the territory of the receiving State and in handing them over to the authority which is to exercise jurisdiction in accordance with the above, as well as in the collection of evidence and the carrying out of all necessary investigations, the seizure and, in proper cases, handing over [of] exhibits and all objects connected with the offence. The authorities of the Contracting Parties shall notify one another of the results of all investigations and trials in cases in which there is concurrent jurisdiction.

7. Whenever a member of a force or civilian component is prosecuted under the jurisdiction of a receiving State, he shall be entitled:

- (a) to a prompt and speedy trial;
- (b) to be informed in advance of trial of the specific charge or charges made against him;
- (c) to be confronted with the witnesses against him;
- (d) to have compulsory process for obtaining witnesses in his favour;
- (e) to defence by a qualified advocate or counsel of his own choice or, failing such choice, appointed to conduct his defence;
- (f) if he considers it necessary, to the service of a competent interpreter, and, when the rules of court permit, to the presence of a representative of his Government.

8. Regularly constituted military units or formations of forces shall have the right to police any camps, establishments or other premises which they have occupied as the result of an agreement with the receiving State, under the following conditions:

- (a) The military police of the units or formations may take all appropriate measures to insure the maintenance of order on such premises;
- (b) Employment of such military police outside of its premises will be subject to arrangement with the authorities of the receiving State and in liaison with those authorities, where such employment is necessary to maintain discipline and order among the members of such units or formations.

9. Each Contracting Party will seek such legislation as it deems necessary to ensure the adequate security and protection within their respective territories of installations, equipment, property, records and official information of other Contracting Parties, and the punishment of persons who may contravene such laws enacted for that purpose.

ARTICLE VIII

[A revised draft of Article VIII was not contained in this document. See note 3, *supra*].

ARTICLE IX

1. Members of a force or of a civilian component and their dependents may purchase locally goods necessary for their own consumption and such services as they need under the same conditions as the nationals of the receiving State.

2. Goods purchased locally which are required for the subsistence of a force or civilian component will normally be purchased through the competent departments which purchase such goods for armed services of the receiving State. In order to avoid such purchases having any adverse effect on the economy of the receiving State, the competent authorities of this State will indicate, when necessary, any articles the purchase of which should be restricted or forbidden.

3. After agreement between the authorised representatives of the sending and receiving States, the competent authorities of the receiving State will assume sole responsibility for making suitable arrangements to make available to a force or a civilian component the buildings and grounds which it requires, as well as facilities and services connected therewith. These agreements and arrangements will be, as far as possible, in accordance with the regulations governing the accommodation and billeting of similar personnel of the receiving State. In the absence of a specific contract the laws of the receiving State shall determine the rights and obligations arising out of the occupation or use of the buildings, grounds or facilities.

4. Local civilian labour requirements of a force or a civilian component will be satisfied in the same way as those of the comparable authorities of the receiving State and with the assistance of those authorities through the employment exchanges. The conditions of employment and work, in particular wages, supplementary payments and conditions for the protection of workers shall be those laid down by the legislation of the receiving State. Such civilian workers employed by a force or civilian component shall not be regarded for any purpose as being members of that force.

5. When a force or a civilian component has at the place where it is stationed inadequate medical or dental facilities, its members and their dependents may receive medical and dental care, including hospitalisation, under the same conditions as comparable personnel of the receiving State.

6. The receiving State will give the most favourable consideration to requests for the grant to members of a force or a civilian com-

ponent of travelling facilities and concessions with regard to fares. These facilities and concessions will be the subject of special arrangements to be made between the Governments concerned.

7. Subject to any general or particular financial arrangements between the Parties, payment in local currency for goods, accommodation and services furnished under paragraphs 2, 3, 4 and, if necessary, 5 and 6, will be made promptly by the authorities of the force or a civilian component.

8. Neither a force nor a civilian component nor the members thereof nor their dependents shall by reason of this Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the receiving State.

ARTICLE X

[A revised draft of Article X was not contained in this document. See note 3, *supra*].

ARTICLE XI

1. Save as provided expressly to the contrary in this Agreement, members of a force and a civilian component, as well as their dependents, are subject to the laws and regulations administered by the customs authorities of the receiving State. In particular, the customs authorities of the receiving State shall have the right, under the general conditions laid down by the laws and regulations of the receiving State, to search members of a force or civilian component and their dependents and to examine their luggage and vehicles and seize articles pursuant to such laws and regulations.

2. The temporary importation and the re-exportation of service vehicles shall be authorised free of duty on presentation of a trip-tique in the form shown in Appendix A. These vehicles shall be exempt from any tax payable in respect of the use of vehicles on the roads.

3. Official documents under official seal will not be subject to customs inspection. Couriers carrying these documents, whatever their status, must be in possession of an individual movement order, issued in accordance with Article III, par. 2(b). This movement order will show the number of despatches carried and certify that they contain only official documents.

4. The authorities of a force may import free of duty the equipment and reasonable quantities of provisions, supplies and other goods for the exclusive use of that force. This duty-free importation shall be subject to the deposit, at the customs office, together with the

customs documents, of a certificate signed by an official authorised for that purpose. The list of the officials authorised to sign the certificates, as well as specimens of their signatures and the stamps used, shall be sent to the customs administration of the receiving State.

5. Members of a force or of a civilian component may, at the time of first arrival to take up service in the receiving State, import free of duty their personal effects and furniture then in use. Any new furniture may be admitted temporarily free of duty for the term of service of the persons concerned. They may, on the termination of their service in the receiving State, or before that date, export free of duty their personal effects and furniture then in use.

6. Members of a force or civilian component may import temporarily free of duty their private motor vehicles for the personal use of themselves and their dependents. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of the roads by private vehicles.

7. Imports made by the authorities of a force other than for the exclusive use of their force, and imports, other than those dealt with in paragraphs 5 and 6 of this Article, effected by members of a force or civilian component, are not, by reason of this Article, entitled to any exemption from duty or other conditions.

8. Goods which have been imported duty-free under paragraph 4, above:

(a) can be re-exported freely provided that a certificate, issued in accordance with paragraph 4, above, is presented to the customs office: the customs authorities, however, may verify that goods re-exported are as described in the certificate and have in fact been imported under the conditions of paragraph 4;

(b) cannot normally be disposed of in the receiving State by way of either sale or gift: however, in particular cases such disposal may be authorised on conditions imposed by the customs authorities (for instance, on payment of duty and tax and compliance with the requirements of the controls of trade and exchange).

9. Goods purchased in the receiving State can only be exported therefrom in accordance with the regulations in force in the receiving State.

10. Special arrangements for crossing frontiers shall be granted by the customs authorities to regularly constituted units or formations, provided that the customs authorities concerned have been duly notified in advance.

11. Special arrangements shall be made by the receiving State so

that fuel, oil and lubricants for use in service vehicles, aircraft and vessels of a force or civilian component, may be delivered free of all duties and taxes.

12. In paragraphs 1–10 of this Article, “duty” means customs duties and all other duties and taxes payable on importation or exportation, as the case may be.

ARTICLE XII

1. The customs or fiscal authorities of the receiving State may, as a condition of the grant of any customs or fiscal exemption or concession provided for in this Agreement, require such conditions to be observed as they may deem necessary to prevent abuse.

2. These authorities may refuse any exemption provided for by this Agreement in respect of the importation into the receiving State of articles grown, produced or manufactured in that State which have been exported therefrom without payment of, or upon repayment of, taxes and duties which would have been chargeable but for such exportation. Goods removed from a customs warehouse shall be deemed to be imported if they were regarded as having been exported by reason of being deposited in the warehouse.

ARTICLE XIII

1. In order to prevent offences against customs and fiscal laws and regulations of a receiving State, the customs and fiscal authorities of the receiving State and the authorities of the sending State will afford each other mutual assistance in the conduct of enquiries and the collection of evidence.

2. The authorities of a force will render all assistance within their power to insure that articles liable to seizure by or on behalf of the customs or fiscal authorities of the receiving State are handed to those authorities.

3. The authorities of a force will render all assistance within its power to insure the payment of duties, taxes and penalties payable by members of the force or civilian component and their dependents.

4. Service vehicles and articles belonging to a force seized in connection with an offence against the customs and fiscal laws and regulations will be handed over to the appropriate authorities of the force concerned.

ARTICLE XIV

1. A force, a civilian component and the members thereof as well as their dependents shall remain subject to the foreign exchange

regulations of the sending State and are also subject to the regulations of the receiving State.

2. The foreign exchange authorities of the sending and the receiving States may issue special regulations applicable to a force or a civilian component, or the members thereof as well as their dependents.

[There follows an "Appendix A" which is identical with the Appendix contained in the final text of the Agreement. There is no Appendix B].

MS-D(51) 11(R)

Status of Forces Agreement—Revised Text (Articles I-V, IX, XI-XIX) of the Draft (20 February 1951) ¹

Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949,

Desiring to define the status of the forces of one Party serving in the territory of another Party,

Have agreed as follows:

ARTICLE I

In this Agreement the expression—

- (a) "force" means the personnel belonging to the land, sea or air armed services of one Contracting Party when in the territory of another Contracting Party in connexion with the operation of the North Atlantic Treaty;
- (b) "civilian component" means the civilian personnel accompanying a force who are in the employ of an armed service of a Contracting Party, and who are not nationals of, or ordinarily resident in, the State in which the force is located;
- (c) "dependent" means the spouse of a member of a force or of a civilian component, or a child of such member depending on him or her for support;
- (d) "sending State" means the Contracting Party maintaining the force;

¹ Previous reference: MS-D(51) 11 (19 February 1951). The text of Articles VI, VII, VIII and X was not contained in the original version of this document, but were distributed as Addenda to it on 22 February 1951. The text of all four Articles has been inserted in the text of MS-D(51) 11(R) by the editor.

- (e) "receiving State" means the Contracting Party in the territory of which the force is located, whether it be stationed there or passing in transit;
- (f) "military authorities of the sending State" means those authorities of a sending State who are empowered by its law to enforce the military law of that State with respect to members of its forces or civilian components.

ARTICLE II

It is the duty of a force and its civilian component and the members thereof as well as their dependents to respect the law of the receiving State, and to abstain from any activity inconsistent with the spirit of the present Agreement, and, in particular, from any political activity in the receiving State. It is also the duty of the sending State to take necessary measures to that end.

ARTICLE III

1. On the conditions specified in paragraph 2 of this Article and subject to compliance with the formalities established by the receiving State relating to entry and departure of a force or civilian component or the members thereof, such members shall be exempt from passport and visa regulations and immigration inspection on entering or leaving the territory of a receiving State. They shall also be exempt from the regulations on the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territories of the receiving State.

2. The following documents only will be required in respect of members of a force or civilian component. They must be presented on demand:

- (a) personal identity card issued by the sending State, showing names, date of birth, rank and number (if any), service, and photograph, and, in the case of a member of a civilian component, also the place of birth and the ordinary residence and the nationality of the member;
- (b) individual or collective movement order, in the language of the sending State and in the English and French languages, issued by an appropriate agency of the sending State and certifying to the status of the individual or group as a member or members of a force or of a civilian component and to the movement ordered. The receiving State may require a movement order to be countersigned by its appropriate representative.

ARTICLE IV

The receiving State shall either

- (a) accept as valid, without a driving test or fee, the driving permit or licence or military driving permit issued by the sending State or a sub-division thereof to a member of a force or of a civilian component; or
- (b) issue its own driving permit or licence to any member of a force or civilian component who holds a driving permit or licence issued by the sending State or a sub-division thereof, provided that no driving test shall be required.

ARTICLE V

1. Members of a force shall normally wear uniform. Regularly constituted units or formations of a force shall be in uniform when crossing a frontier.

2. Service vehicles of a force shall carry, in addition to their registration number, a distinctive nationality mark.

ARTICLE VI ²

1. Members of a force may carry arms, on condition that they are authorised to do so by their orders. The authorities of the sending State shall give consideration to requests from the receiving State concerning this matter.

2. Officers of a force are always authorised to retain possession of their regulation personal weapons.

ARTICLE VII ³

1. Subject to the provisions of this Article,

- (a) the military authorities of the sending State shall have the right to exercise within the receiving State all jurisdiction and control conferred on them by the law of the sending State over all persons subject to the military law of that State;
- (b) the authorities of the receiving State shall have jurisdiction over the members of a force or civilian component with respect to offences committed within the territory of the receiving State and punishable by the law of that State.

2. (a) The military authorities of the sending State shall have

² See note 1, *supra*.

³ See note 1, *supra*.

exclusive jurisdiction over persons subject to the military law of that State with respect to offences relating to its security, but not to that of the receiving State, and to all other acts punishable by the law of the sending State but not by the law of the receiving State.

- (b) The authorities of the receiving State shall have exclusive jurisdiction over members of a force or civilian component with respect to offences relating to the security of that State, but not to the security of the sending State, and to all other acts punishable by the law of the receiving State but not by the law of the sending State.
- (c) A security offence against a particular State shall include
 - (i) treason against that State;
 - (ii) sabotage, espionage or violation of any law relating to officials secrets of that State, or secrets relating to the national defence of that State.

3. In cases where there is concurrent jurisdiction the following rules shall apply:

- (a) The military authorities of the sending State shall have the primary right to exercise jurisdiction in relation to
 - (i) offences solely against the property of that State, or offences solely against the person, property or a dependent of another member of the force or civilian component of that State;
 - (ii) offences arising out of any act done in the performance of official duty (or pursuant to a lawful order issued by the competent authorities of that State).
- (b) In the case of any other offence the authorities of the receiving State shall have the primary right to exercise jurisdiction.
- (c) If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of the State having the primary right will give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other State considers such waiver to be of particular importance.

4. A death sentence shall not be carried out in the receiving State by the authorities of the sending State if the legislation of the receiving State does not provide for such punishment in a similar case.

- 5. (a) The authorities of the receiving and sending States shall assist each other in the arrest of offenders in the territory of

the receiving State and in handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.

- (b) The authorities of the receiving State shall notify promptly the military authorities of the sending State of the arrest of any member of a force or civilian component.
 - (c) The custody of an accused over whom the receiving State is to exercise jurisdiction shall, if he is in the hands of the sending State, remain with that State until his arraignment by the receiving State.
6. (a) The authorities of the receiving and sending States shall assist each other in the carrying out of all necessary investigations into offences, and in the collection of evidence, including the seizure and in proper cases the handing over of objects connected with an offence.
- (b) The authorities of the Contracting Parties shall notify one another of the results of all investigations and trials in cases where there is concurrent jurisdiction.
7. Where an accused has been tried by the authorities of one Contracting Party and has been acquitted, or has been convicted and is serving or has served his sentence, he may not be tried again for the same offence within the territory of that Contracting Party by the authorities of another Contracting Party.
8. Whenever a member of a force or civilian component is prosecuted under the jurisdiction of a receiving State he shall be entitled—
- (a) to a prompt and speedy trial;
 - (b) to be informed in advance of trial of the specific charge or charges made against him;
 - (c) to be confronted with the witnesses against him;
 - (d) to have compulsory process for obtaining witnesses in his favour, if within the jurisdiction of the receiving State;
 - (e) to defence by a qualified advocate or counsel of his own choice, or, failing such choice, appointed to conduct his defence;
 - (f) if he considers it necessary, to have the services of a competent interpreter; and
 - (g) to communicate with a representative of his government and, when the rules of the court permit, to have such a representative present at his trial.
9. (a) Regularly constituted military units or formations of forces shall have the right to police any camps, establishments or other premises which they have occupied as the result of

an agreement with the receiving State. The military police of the force may take all appropriate measures to ensure the maintenance of order and security on such premises.

- (b) Outside these premises, such military police shall be employed only subject to arrangements with the authorities of the receiving State and in liason with those authorities, and in so far as such employment is necessary to maintain discipline and order among the members of such units or formations.

10. Each Contracting Party will seek such legislation as it deems necessary to ensure the adequate security and protection within their respective territories of installations, equipment, property, records and official information of other Contracting Parties, and the punishment of persons who may contravene such laws enacted for that purpose.

ARTICLE VIII ⁴

1. Each Contracting Party waives all its claims for damage to any property owned by it and used by its Service Ministries (land, sea or air) against any other Contracting Party or its servants or agents, provided such claims arise out of or in connexion with the operation of the North Atlantic Treaty.

For the purpose of this paragraph the expression "owned by a Contracting Party" includes a vessel on bare boat charter to that Contracting Party or requisitioned by it on bare boat terms or otherwise in its possession (except to the extent that the risk of loss or liability is borne by some person other than such Contracting Party or its insurer).

2. In the case of damage to property owned by a Contracting Party and not covered by paragraph 1 above, the amount of damage will be assessed by an arbitrator nominated by the receiving State, after consultation with any of the other Contracting Parties involved, and chosen from amongst its own nationals who hold or have held high judicial office, and will be distributed in accordance with paragraph 5(b) below.

Nevertheless each Contracting Party waives its claim in any such case where the damage is less than:—

Belgium	B.fr. 70,000	Luxembourg	L.fr. 70,000
Canada		Netherlands	Fl. 5,320
Denmark		Norway	
France	F.fr. 490,000	Portugal	
Iceland		United Kingdom	£500
Italy		United States	

⁴ See note 1, *supra*.

In the case of considerable variation in the rates of exchange between these currencies the Contracting Parties shall, by exchange of letters, agree on the appropriate adjustments of these amounts.

3. Each Contracting Party waives all claims against any other Contracting Party for injury or death suffered by any member of its armed services while in the performance of his official duties.

4. Claims (other than contractual claims) arising out of acts done by members of a force or civilian component in the performance of their official duties, not incident to combat, and causing damage to or loss or destruction of the property of private persons in the territory of the receiving State, or the injury or death of individuals therein, shall be settled by the receiving State in accordance with the following provisions:

- (a) Claims shall be filed, considered and determined or adjudicated in accordance with the laws and regulations of the receiving State with respect to claims arising from the activities of its own armed forces.
- (b) The receiving State may settle any such claim in its currency, and payment of the amount agreed upon shall be made by the receiving State.
- (c) Such payment, or the final adjudication of the competent tribunals of the receiving State denying payment, shall be binding and conclusive upon the Contracting Parties.
- (d) The authorities of the sending State and the receiving State will co-operate in the procurement of evidence for a fair hearing and disposal of such claims
- (e) The cost incurred in satisfying claims pursuant to the preceding sub-paragraphs will, at such intervals as may be agreed, be distributed between the Contracting Parties in proportions which shall be provisionally, until agreement to the contrary, as follows:

Belgium-Luxembourg	5.5%	Netherlands	5%
Canada	7%	Norway	3%
Denmark	3%	Portugal	3%
France	15.5%	United Kingdom	23%
Iceland	0%	United States	28%
Italy	7%		

- (f) A member of a force or civilian component shall not be subject to any proceedings for the enforcement of any judgment given against him in the receiving State in a matter arising from the performance of his official duties.

The provisions of this paragraph shall not apply to any claim

arising out of or in connexion with the navigation or operation of a ship or the loading, carriage, or discharge of a cargo.

5. Claims against members of the force of a sending State arising out of tortious acts or omissions not relating to the performance of their official duties shall be dealt with in the following manner. The authorities of the receiving State shall consider the claim and assess compensation to the claimant in a fair and just manner, taking into account all the circumstances of the case, including the conduct of the injured person, and shall prepare a report on the matter. The report shall be delivered to the authorities of the sending State, who shall then decide without delay whether they will offer an *ex gratia* payment is and if so, of what amount. If an offer of *ex gratia* payment is made, and accepted by the claimant in full satisfaction of his claim, the authorities of the sending State shall make the payment themselves and inform the Government of the receiving State of their decision and of the sum paid. Nothing in this paragraph shall affect the jurisdiction of the courts of the receiving State to entertain an action against a member of the force of a sending State unless and until there has been payment in full satisfaction of the claim.

6. If any question arises whether a tortious act or omission of a member of a force or civilian component relates to the performance of his duties, the question shall be submitted to the arbitrator referred to in paragraph 2 of this Article, whose decision on this point shall be final and conclusive.

7. The courts of the receiving State shall have jurisdiction to hear and determine contractual claims against members of a force or a civilian component.

ARTICLE IX

1. Members of a force or of a civilian component and their dependents may purchase locally goods necessary for their own consumption and such services as they need under the same conditions as the nationals of the receiving State.

2. Goods purchased locally which are required for the subsistence of a force or a civilian component will normally be purchased through the competent departments which purchase such goods for armed services of the receiving State. In order to avoid such purchases having any adverse effect on the economy of the receiving State, the competent authorities of this State will indicate, when necessary, any articles the purchase of which should be restricted or forbidden.

3. After agreement between the authorised representatives of the sending and receiving States, the competent authorities of the receiving State will assume sole responsibility for making suitable arrangements to make available to a force or a civilian component the buildings and grounds which it requires, as well as facilities and services connected therewith. These agreements and arrangements will be, as far as possible, in accordance with the regulations governing the accommodation and billeting of similar personnel of the receiving State. In the absence of a specific contract the laws of the receiving State shall determine the rights and obligations arising out of the occupation or use of the buildings, grounds or facilities.

4. Local civilian labour requirements of a force or a civilian component will be satisfied in the same way as the comparable requirements of the receiving State and with the assistance of the authorities of the receiving State through the employment exchanges. The conditions of employment and work, in particular wages, supplementary payments and conditions for the protection of workers shall be those laid down by the legislation of the receiving State. Such civilian workers employed by a force or civilian component shall not be regarded for any purpose as being members of that force or civilian component.

5. When a force or a civilian component has at the place where it is stationed inadequate medical or dental facilities, its members and their dependents may receive medical and dental care, including hospitalisation, under the same conditions as comparable personnel of the receiving State.

6. The receiving State will give the most favourable consideration to requests for the grant to members of a force or a civilian component of travelling facilities and concessions with regard to fares. These facilities and concessions will be the subject of special arrangements to be made between the Governments concerned.

7. Subject to any general or particular financial arrangements between the Contracting Parties, payment in local currency for goods, accommodation and services furnished under paragraphs 2, 3, 4 and, if necessary, 5 and 6, will be made promptly by the authorities of the force or civilian component.

8. Neither a force, a civilian component, nor the members thereof, nor their dependents, shall by reason of this Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the receiving State.

ARTICLE X⁵

1. Where the incidence of any form of taxation in a receiving State depends upon residence or domicile, periods during which a member of a force or civilian component is in the territory of that State by reason solely of his being a member of such force or civilian component shall not be considered as periods of residence or domicile therein for the purposes of such taxation. Members of a force or civilian components shall be exempt from taxation in the receiving State on the salary and emoluments paid to them as such members by the sending State or on any property the presence of which in the receiving State is due solely to his temporary presence there.

2. Nothing in this Article shall prevent taxation of a member of a force or civilian component with respect to any profitable enterprise, other than his employment as such member, in which he may engage in the receiving State.

ARTICLE XI

1. Save as provided expressly to the contrary in this Agreement members of a force and a civilian component as well as their dependents are subject to the laws and regulations administered by the customs authorities of the receiving State. In particular the customs authorities of the receiving State shall have the right, under the general conditions laid down by the laws and regulations of the receiving State, to search members of a force or civilian component and their dependents and to examine their luggage and vehicles, and seize articles pursuant to such laws and regulations.

2. The temporary importation and the re-exportation of service vehicles shall be authorised free of duty on presentation of a trip-tique in the form shown in the Appendix to this Agreement. These vehicles shall be exempt from any tax payable in respect of the use of vehicles on the roads.

3. Official documents under official seal will not be subject to customs inspection. Couriers carrying these documents, whatever their status, must be in possession of an individual movement order, issued in accordance with Article III. This movement order will show the number of despatches carried and certify that they contain only official documents.

4. The authorities of a force may import free of duty the equipment and reasonable quantities of provisions, supplies and other goods for the exclusive use of that force and its civilian component. This duty-free importation shall be subject to the deposit, at the

⁵ See note 1, *supra*.

customs office, together with the customs documents, of a certificate signed by an official of the sending State authorised for that purpose. The list of the officials authorised to sign the certificates as well as specimens of their signatures and the stamps used, shall be sent to the customs administration of the receiving State.

5. Members of a force or civilian component may at the time of first arrival to take up service in the receiving State import free of duty for the time of such service their personal effects and furniture then in use. Additional furniture shall be admitted at any time on the same conditions.

6. Members of a force or civilian component may import temporarily free of duty their private motor vehicles for the personal use of themselves and their dependents. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

7. Imports made by the authorities of a force other than for the exclusive use of that force and its civilian component, and imports, other than those dealt with in paragraphs 5 and 6 of this Article, effected by members of a force or civilian component are not, by reason of this Article, entitled to any exemption from duty or other conditions.

8. Goods which have been imported duty-free under paragraphs 5 or 6 above:

- (a) can be re-exported freely, provided that, in the case of goods imported under paragraph 4, a certificate, issued in accordance with that paragraph, is presented to the customs office: the customs authorities, however, may verify that goods re-exported are as described in the certificate, if any, and have in fact been imported under the conditions of paragraph 4, 5 or 6, as the case may be;
- (b) cannot normally be disposed of in the receiving State by way of either sale or gift: however, in particular cases such disposal may be authorised on conditions imposed by the customs authorities (for instance on payment of duty and tax and compliance with the requirements of the controls of trade and exchange).

9. Goods purchased in the receiving State can only be exported therefrom in accordance with the regulations in force in the receiving State.

10. Special arrangements for crossing frontiers shall be granted by the customs authorities to regularly constituted units or formations, provided that the customs authorities concerned have been duly notified in advance.

11. Special arrangements shall be made by the receiving State so that fuel, oil and lubricants for use in service vehicles, aircraft and vessels of a force or civilian component may be delivered free of all duties and taxes.

12. In paragraphs 1-10 of this Article "duty" means customs duties and all other duties and taxes payable on importation or exportation, as the case may be.

ARTICLE XII

1. The customs or fiscal authorities of the receiving State may, as a condition of the grant of any customs or fiscal exemption or concession provided for in this Agreement, require such conditions to be observed as they may deem necessary to prevent abuse.

2. These authorities may refuse any exemption provided for by this Agreement in respect of the importation into the receiving State of articles grown, produced or manufactured in that State which have been exported therefrom without payment of, or upon repayment of, taxes or duties which would have been chargeable but for such exportation. Goods removed from a customs warehouse shall be deemed to be imported if they were regarded as having been exported by reason of being deposited in the warehouse.

ARTICLE XIII

1. In order to prevent offences against customs and fiscal laws and regulations of a receiving State, the customs and fiscal authorities of the receiving State and the authorities of the sending State will afford each other mutual assistance in the conduct of enquiries and the collection of evidence.

2. The authorities of a force will render all assistance within their power to ensure that articles liable to seizure by or on behalf of the customs or fiscal authorities of the receiving State are handed to those authorities.

3. The authorities of a force will render all assistance within its power to ensure the payment of duties, taxes and penalties payable by members of the force or civilian component and their dependents.

4. Service vehicles and articles belonging to a force or its civilian component seized in connexion with an offence against the customs and fiscal laws and regulations will be handed over to the appropriate authorities of the force concerned.

ARTICLE XIV

1. A force, a civilian component and the members thereof as well as their dependents shall remain subject to the foreign exchange

regulations of the sending State and are also subject to the regulations of the receiving State.

2. The foreign exchange authorities of the sending and the receiving States may issue special regulations applicable to a force or a civilian component, or the members thereof as well as their dependents.

ARTICLE XV

If any Contracting Party is involved in hostilities in the North Atlantic area, each of the Contracting Parties shall have the right, by giving 60 days notice to the other Contracting Parties, to suspend the application of any of the provisions of this Agreement so far as it is concerned. If this right is exercised, the Contracting Parties will immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

ARTICLE XVI

All differences between the Contracting Parties relating to the interpretation or application of this Agreement shall be settled by negotiation between them and there shall be no recourse to any outside jurisdiction. Except where express provision is made to the contrary in this Agreement, the Contracting Parties will make use of the machinery of the North Atlantic Council for the settlement of any differences which cannot be settled by direct negotiation.

ARTICLE XVII

Any Contracting Party may at any time request the revision of any Article of this Agreement. The request shall be addressed to the Chairman of the North Atlantic Council, who shall refer the request to the Council.

ARTICLE XVIII

1. The present Agreement shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Government of the United States of America, which shall notify each signatory State of the date of deposit thereof.

2. Thirty days after four signatory States have deposited their instruments of ratification the present Agreement shall come into force between them. It shall come into force for each other signatory State thirty days after the deposit of its instrument of ratification.

3. After it has come into force, the present Agreement shall be open to accession on behalf of any State which accedes to the North Atlantic Treaty. Accession shall be effected by the deposit of an

instrument of accession with the Government of the United States of America, which shall notify each signatory and acceding State of the date of deposit thereof. In respect of any State on behalf of which an instrument of accession is deposited, the present Agreement shall come into force thirty days after the date of the deposit of such instrument.

ARTICLE XIX

1. The present Agreement may be denounced by any Contracting Party after the expiration of a period of four years from the date on which the Agreement comes into force.

2. The denunciation of the Agreement by any Contracting Party shall be effected by a written notification addressed by that Contracting Party to the Government of the United States of America which shall notify all the other Contracting Parties of each such denunciation and the date of receipt thereof.

3. The denunciation shall take effect one year after the receipt of the notification by the Government of the United States of America. After the expiration of this period of one year, the Agreement shall cease to be in force as regards the Contracting Party which denounces it, but shall continue in force for the remaining Contracting Parties.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed the present Agreement.

Done in London this ----- day of -----, in the English and French languages, both texts being equally authoritative in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

[There follows an Appendix, identical with the Appendix contained in the final version of the Agreement].

MS-D(51) 11(2R)

**Status of Forces Agreement—New Revised Text (Articles I-XIX)
of the Draft (24 February 1951) ¹**

Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949,

¹ Previous reference: MS-D(51) 11(R) (20 February 1951).

Desiring to define the status of the forces of one Party serving in the territory of another Party,
Have agreed as follows:

ARTICLE I

In this Agreement the expression—

- (a) “force” means the personnel belonging to the land, sea or air armed services of one Contracting Party when in the territory of another Contracting Party in connexion with the operation of the North Atlantic Treaty;
- (b) “civilian component” means the civilian personnel accompanying a force of a Contracting Party who are in the employ of an armed service of that Contracting Party, and who are not nationals of, nor ordinarily resident in, the State in which the force is located;
- (c) “dependent” means the spouse of a member of a force or of a civilian component, or a child of such member depending on him or her for support;
- (d) “sending State” means the Contracting Party maintaining the force;
- (e) “receiving State” means the Contracting Party in the territory of which the force is located, whether it be stationed there or passing in transit;
- (f) “military authorities of the sending State” means those authorities of a sending State who are empowered by its law to enforce the military law of that State with respect to members of its forces or civilian components.

ARTICLE II

It is the duty of a force and its civilian component and the members thereof as well as their dependents to respect the law of the receiving State, and to abstain from any activity inconsistent with the spirit of the present Agreement, and, in particular, from any political activity in the receiving State. It is also the duty of the sending State to take necessary measures to that end.

ARTICLE III

1. On the conditions specified in paragraph 2 of this Article and subject to compliance with the formalities established by the receiving State relating to entry and departure of a force or the members thereof, such members shall be exempt from passport and visa regulations and immigration inspection on entering or

leaving the territory of a receiving State. They shall also be exempt from the regulations of the receiving State on the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territories of the receiving State.

2. The following documents only will be required in respect of members of a force. They must be presented on demand:

- (a) personal identity card issued by the sending State, showing names, date of birth, rank and number (if any), service, and photograph;
- (b) individual or collective movement order, in the language of the sending State and in the English and French languages, issued by an appropriate agency of the sending State and certifying to the status of the individual or group as a member or members of a force and to the movement ordered. The receiving State may require a movement order to be countersigned by its appropriate representative.

3. In order that members of a civilian component or dependents of a force or civilian component may enjoy the privileges to which they are entitled by this Agreement, they should be so described in their passports.

4. If a member of a force or civilian component leaves the employ of the sending State and is not repatriated, the authorities of the sending State shall immediately inform the authorities of the receiving State, giving such particulars as may be required.

5. If the receiving State has made an expulsion order against an ex-member of a force or civilian component, the authorities of the sending State shall be responsible for receiving him within their own territory or otherwise disposing of him outside the receiving State.

ARTICLE IV

The receiving State shall either

- (a) accept as valid, without a driving test or fee, the driving permit or licence or military driving permit issued by the sending State or a sub-division thereof to a member of a force or of a civilian component; or
- (b) issue its own driving permit or licence to any member of a force or civilian component who holds a driving permit or licence issued by the sending State or a sub-division thereof, provided that no driving test shall be required.

ARTICLE V

1. Members of a force shall normally wear uniform. Regularly

constituted units or formations of a force shall be in uniform when crossing a frontier.

2. Service vehicles of a force or civilian component shall carry, in addition to their registration number, a distinctive nationality mark.

ARTICLE VI

1. Members of a force may carry arms, on condition that they are authorised to do so by their orders. The authorities of the sending State shall give consideration to requests from the receiving State concerning this matter.

2. Officers of a force are always authorised to retain possession of their regulation personal weapons.

ARTICLE VII

1. Subject to the provisions of this Article,

(a) the military authorities of the sending State shall have the right to exercise within the receiving State all jurisdiction and control conferred on them by the law of the sending State over all persons subject to the military law of that State;

(b) the authorities of the receiving State shall have jurisdiction over the members of a force or civilian component with respect to offences committed within the territory of the receiving State and punishable by the law of that State.

2. The military authorities of the sending State shall have the right to exercise exclusive jurisdiction over persons subject to the military law of that State with respect to offences relating to its security, but not to that of the receiving State, and to all other acts punishable by the law of the sending State, but not by the law of the receiving State.

The authorities of the receiving State shall have the right to exercise exclusive jurisdiction over members of a force or civilian component with respect to offences relating to the security of that State, but not to the security of the sending State, and to all other acts punishable by the law of the receiving State, but not by the law of the sending State.

A security offence against a particular State shall include:

(a) treason against that State;

(b) sabotage, espionage or violation of any law relating to official secrets of that State, or secrets relating to the national defence of that State.

3. In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:

- (a) The military authorities of the sending State shall have the primary right to exercise jurisdiction in relation to
 - (i) offences solely against the property of that State, or offences solely against the person, property or the dependent of another member of the force or civilian component of that State;
 - (ii) offences arising out of any act done in the performance of official duty (or pursuant to a lawful order issued by the competent authorities of that State).
- (b) In the case of any other¹ offence the authorities of the receiving State shall have the primary right to exercise jurisdiction.
- (c) If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as possible. The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other State considers such waiver to be of particular importance.

4. A death sentence shall not be carried out in the receiving State by the authorities of the sending State if the legislation of the receiving State does not provide for such punishment in a similar case.

5. The authorities of the receiving and sending States shall assist each other in the arrest of members of a force or civilian component in the territory of the receiving State and in handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.

The authorities of the receiving State shall notify promptly the military authorities of the sending State of the arrest of any member of a force or civilian component.

The custody of an accused over whom the receiving State is to exercise jurisdiction shall, if he is in the hands of the sending State, remain with that State until he is charged by the receiving State.

6. The authorities of the receiving and sending States shall assist each other in the carrying out of all necessary investigations into offences, and in the collection of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offence.

The authorities of the Contracting Parties shall notify one

another of the results of all investigations and trials in cases where there is concurrent jurisdiction.

7. Where an accused has been tried by the authorities of one Contracting Party and has been acquitted, or has been convicted and is serving, or has served, his sentence, he may not be tried again for the same offence within the same territory by the authorities of another Contracting Party.

8. Whenever a member of a force or civilian component is prosecuted under the jurisdiction of a receiving State he shall be entitled:

- (a) to a prompt and speedy trial;
- (b) to be informed in advance of trial of the specific charge or charges made against him;
- (c) to be confronted with the witnesses against him;
- (d) to have compulsory process for obtaining witnesses in his favour, if within the jurisdiction of the receiving State;
- (e) to defence by a qualified advocate or counsel of his own choice, or, failing such choice, appointed to conduct his defence;
- (f) if he considers it necessary, to have the services of a competent interpreter; and
- (g) to communicate with a representative of his Government and, when the rules of the court permit, to have such a representative present at his trial.

9. Regularly constituted military units or formations of forces shall have the right to police any camps, establishments or other premises which they have occupied as the result of an agreement with the receiving State. The military police of the force may take all appropriate measures to ensure the maintenance of order and security on such premises.

Outside these premises, such military police shall be employed only subject to arrangements with the authorities of the receiving State and in liaison with those authorities, and in so far as such employment is necessary to maintain discipline and order among the members of such units or formations.

10. Each Contracting Party will seek such legislation as it deems necessary to ensure the adequate security and protection within their respective territories of installations, equipment, property, records and official information of other Contracting Parties, and the punishment of persons who may contravene such laws enacted for that purpose.

ARTICLE VIII

1. Each Contracting Party waives all its claims against any other Contracting Party for damage to any property owned by it and used by its Service Ministries (land, sea or air) caused by a member or employee of the armed forces of any other Contracting Party, provided that such damage was caused by such member or employee in the execution of his duties in connexion with the operation of the North Atlantic Treaty. Claims for salvage by the respective Service Ministries are similarly waived.

For the purpose of this paragraph the expression "owned by a Contracting Party" includes a vessel on bare boat charter to that Contracting Party or requisitioned by it on bare boat terms or otherwise in its possession (except to the extent that the risk of loss or liability is borne by some person other than such Contracting Party or its insurer).

2. In the case of damage to property owned by a Contracting Party and not covered by paragraph 1 above, the amount of damage will be assessed by an arbitrator nominated by the receiving State, after consultation with any of the other Contracting Parties involved, and chosen from amongst its own nationals who hold or have held high judicial office, and will be distributed in accordance with paragraph 4(e) below.

Nevertheless each Contracting Party waives its claim in any such case where the damage is less than:—

Belgium	B.fr. 70,000	Luxembourg	L.fr. 70,000
Canada	\$ 1,460	Netherlands	Fl. 5,320
Denmark	Kr. 9,670	Norway	Kr. 10,000
France	F.fr. 490,000	Portugal	Es. 40,250
Iceland	Kr. 22,800	United Kingdom	£ 500
Italy	Li 850,000	United States	\$ 1,400

In the case of considerable variation in the rates of exchange between these currencies the Contracting Parties shall agree on the appropriate adjustments of these amounts.

3. Each Contracting Party waives all claims against any other Contracting Party for injury or death suffered by any member of its armed services while in the performance of his official duties.

4. Claims (other than contractual claims) arising out of acts done by members of a force or civilian component in the performance of their official duties and causing damage to or loss or destruction of the property of persons or bodies, other than the Contracting Parties in the territory of the receiving State, or the injury or

death of individuals therein, shall be settled by the receiving State in accordance with the following provisions:—

- (a) Claims shall be filed, considered and settled or adjudicated in accordance with the laws and regulations of the receiving State with respect to claims arising from the activities of its own armed forces.
- (b) The receiving State may settle any such claims in its currency, and payment of the amount agreed upon or determined by adjudication shall be made by the receiving State.
- (c) Such payment, or the final adjudication of the competent tribunals of the receiving State denying payment, shall be binding and conclusive upon the Contracting Parties.
- (d) The authorities of the sending State and the receiving State will co-operate in the procurement of evidence for a fair hearing and disposal of such claims.
- (e) Every claim paid by the receiving State shall be communicated to the sending States concerned together with full particulars and a proposed distribution in conformity with sub-paragraphs (f)(i) and (ii) below. In default of a reply within two months, the proposal shall be regarded as accepted.
- (f) The cost incurred in satisfying claims pursuant to the preceding sub-paragraphs will, at such intervals as may be agreed, be distributed between the Contracting Parties, as follows:—
 - (i) Where one sending State alone is responsible, the amount awarded and taxable costs shall be distributed in the proportion of 25% chargeable to the receiving State and 75% chargeable to the sending State.
 - (ii) Where more than one State is responsible for the damage, the amount awarded and taxable costs shall be distributed equally among them: however, if the receiving State is not one of the States responsible its contribution shall be half that of each of the sending States.
 - (iii) Every half-year, a statement of the sums paid by the receiving State in the course of the half-yearly period in respect of every case regarding which the proposed distribution on a percentage basis has been accepted, shall be sent to the sending States concerned, together with a request for reimbursement. Such reimbursement shall be made within the shortest possible time, in the currency of the receiving State.

- (iv) In cases where the burden imposed on the Contracting Party by this paragraph causes it serious hardship, it may request the Council to arrange an adjustment of its liability.
- (g) A member of a force or civilian component shall not be subject to any proceedings for the enforcement of any judgment given against him in the receiving State in a matter arising from the performance of his official duties.

The provisions of this paragraph shall not apply to any claim arising out of or in connexion with the navigation or operation of a ship or the loading, carriage, or discharge of a cargo.

5. Claims against members of the force or civilian component of a sending State arising out of tortious acts or omissions in the receiving State not relating to the performance of their official duties shall be dealt with in the following manner. The authorities of the receiving State shall consider the claim and assess compensation to the claimant in a fair and just manner, taking into account all the circumstances of the case, including the conduct of the injured person, and shall prepare a report on the matter. The report shall be delivered to the authorities of the sending State, who shall then decide without delay whether they will offer an *ex gratia* payment, and if so, of what amount. If an offer of *ex gratia* payment is made, and accepted by the claimant in full satisfaction of his claim, the authorities of the sending State shall make the payment themselves and inform the Government of the receiving State of their decision and of the sum paid. Nothing in this paragraph shall affect the jurisdiction of the courts of the receiving State to entertain an action against a member of the force or civilian component unless and until there has been payment in full satisfaction of the claim.

6. If any question arises whether a tortious act or omission of a member of a force or civilian component relates to the performance of his duties, the question shall be submitted to an arbitrator appointed in accordance with paragraph 2 of this Article, whose decision on this point shall be final and conclusive.

7. The sending State shall not claim immunity from the jurisdiction of the courts of the receiving State for members of a force or civilian component in respect of claims not covered by the provisions of the preceding paragraphs.

ARTICLE IX

1. Members of a force or of a civilian component and their dependents may purchase locally goods necessary for their own consumption

and such services as they need under the same conditions as the nationals of the receiving State.

2. Goods which are required from local sources for the subsistence of a force or civilian component will normally be purchased through the authorities which purchase such goods for the armed services of the receiving State. In order to avoid such purchases having any adverse effect on the economy of the receiving State, the competent authorities of this State will indicate, when necessary, any articles the purchase of which should be restricted or forbidden.

3. After agreement between the authorised representatives of the sending and receiving States, the authorities of the receiving State will assume sole responsibility for making suitable arrangements to make available to a force or a civilian component the buildings and grounds which it requires, as well as facilities and services connected therewith. These agreements and arrangements will be, as far as possible, in accordance with the regulations governing the accommodation and billeting of similar personnel of the receiving State. In the absence of a specific contract the laws of the receiving State shall determine the rights and obligations arising out of the occupation or use of the buildings, grounds or facilities.

4. Local civilian labour requirements of a force or a civilian component will be satisfied in the same way as the comparable requirements of the receiving State and with the assistance of the authorities of the receiving State through the employment exchanges. The conditions of employment and work, in particular wages, supplementary payments and conditions for the protection of workers, shall be those laid down by the legislation of the receiving State. Such civilian workers employed by a force or civilian component shall not be regarded for any purpose as being members of that force or civilian component.

5. When a force or a civilian component has at the place where it is stationed inadequate medical or dental facilities, members and their dependents may receive medical and dental care, including hospitalisation, under the same conditions as comparable personnel of the receiving State.

6. The receiving State will give the most favourable consideration to requests for the grant to members of a force or of a civilian component of travelling facilities and concessions with regard to fares. These facilities and concessions will be the subject of special arrangements to be made between the Governments concerned.

7. Subject to any general or particular financial arrangements between the Contracting Parties, payment in local currency for goods, accommodation and services furnished under paragraphs 2, 3, 4 and,

if necessary, 5 and 6, will be made promptly by the authorities of the force or civilian component.

8. Neither a force, nor a civilian component, nor the members thereof, nor their dependents, shall by reason of this Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the receiving State.

ARTICLE X

1. Where the incidence of any form of taxation in a receiving State depends upon residence or domicile, periods during which a member of a force or civilian component is in the territory of that State by reason solely of his being a member of such force or civilian component shall not be considered as periods of residence or domicile therein for the purposes of such taxation. Members of a force or civilian component shall be exempt from taxation in the receiving State on the salary and emoluments paid to them as such members by the sending State or on any tangible movable property the presence of which in the receiving State is due solely to their temporary presence there.

2. Nothing in this Article shall prevent taxation of a member of a force or civilian component with respect to any profitable enterprise, other than his employment as such member, in which he may engage in the receiving State.

ARTICLE XI

1. Save as provided expressly to the contrary in this Agreement, members of a force and of a civilian component as well as their dependents are subject to the laws and regulations administered by the customs authorities of the receiving State. In particular the customs authorities of the receiving State shall have the right, under the general conditions laid down by the laws and regulations of the receiving State, to search members of a force or civilian component and their dependents and to examine their luggage and vehicles, and to seize articles pursuant to such laws and regulations.

2. The temporary importation and the re-exportation of service vehicles shall be authorised free of duty on presentation of a triptyque in the form shown in the Appendix to this Agreement. These vehicles shall be exempt from any tax payable in respect of the use of vehicles on the roads.

3. Official documents under official seal will not be subject to customs inspection. Couriers, whatever their status, carrying these documents, must be in possession of an individual movement order, issued in accordance with Article III. This movement order shall show the

number of despatches carried and certify that they contain only official documents.

4. The authorities of a force may import free of duty the equipment for that force and reasonable quantities of provisions, supplies and other goods for the exclusive use of that force and its civilian component. This duty-free importation shall be subject to the deposit, at the customs officer for the place of entry together with the customs documents, of a certificate signed by an official of the sending State authorised for that purpose. The list of the officials authorised to sign the certificates, as well as specimens of their signatures and the stamps used, shall be sent to the customs administration of the receiving State.

5. Members of a force or civilian component may at the time of first arrival to take up service in the receiving State import free of duty for the term of such service their personal effects and furniture.

6. Members of a force or civilian component may import temporarily free of duty their private motor vehicles for the personal use of themselves and their dependents. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

7. Imports made by the authorities of a force other than for the exclusive use of that force and its civilian component, and imports, other than those dealt with in paragraphs 5 and 6 of this Article, effected by members of a force or civilian component are not, by reason of this Article, entitled to any exemption from duty or other conditions.

8. Goods which have been imported duty-free under paragraphs 4, 5 or 6 above—

(a) may be re-exported freely, provided that, in the case of goods imported under paragraph 4, a certificate, issued in accordance with that paragraph, is presented to the customs office: the customs authorities, however, may verify that goods re-exported are as described in the certificate, if any, and have in fact been imported under the conditions of paragraph 4, 5 or 6 as the case may be;

(b) shall not normally be disposed of in the receiving State by way of either sale or gift: however, in particular cases such disposal may be authorised on conditions imposed by the customs authorities (for instance on payment of duty and tax and compliance with the requirements of the controls of trade and exchange).

9. Goods purchased in the receiving State shall be exported there-

from only in accordance with the regulations in force in the receiving State.

10. Special arrangements for crossing frontiers shall be granted by the customs authorities to regularly constituted units or formations, provided that the customs authorities concerned have been duly notified in advance.

11. Special arrangements shall be made by the receiving State so that fuel, oil and lubricants for use in service vehicles, aircraft and vessels of a force or civilian component, may be delivered free of all duties and taxes.

12. In paragraphs 1–10 of this Article “duty” means customs duties and all other duties and taxes payable on importation or exportation, as the case may be.

ARTICLE XII

1. The customs or fiscal authorities of the receiving State may, as a condition of the grant of any customs or fiscal exemption or concession provided for in this Agreement, require such conditions to be observed as they may deem necessary to prevent abuse.

2. These authorities may refuse any exemption provided for by this Agreement in respect of the importation into the receiving State of articles grown, produced or manufactured in that State which have been exported therefrom without payment of, or upon repayment of, taxes or duties which would have been chargeable but for such exportation. Goods removed from a customs warehouse shall be deemed to be imported if they were regarded as having been exported by reason of being deposited in the warehouse.

ARTICLE XIII

1. In order to prevent offences against customs and fiscal laws and regulations of a receiving State, the customs and fiscal authorities of the receiving State and the authorities of the sending State shall afford each other assistance in the conduct of enquiries and the collection of evidence.

2. The authorities of a force shall render all assistance within their power to ensure that articles liable to seizure by, or on behalf of, the customs or fiscal authorities of the receiving State are handed to those authorities.

3. The authorities of a force will render all assistance within their power to ensure the payment of duties, taxes and penalties payable by members of the force or civilian component or their dependents.

4. Service vehicles and articles belonging to a force or to its civilian component seized in connexion with an offence against the

customs or fiscal laws or regulations will be handed over to the appropriate authorities of the force concerned.

ARTICLE XIV

1. A force, a civilian component and the members thereof as well as their dependents shall remain subject to the foreign exchange regulations of the sending State and shall also be subject to the regulations of the receiving State.

2. The foreign exchange authorities of the sending and the receiving States may issue special regulations applicable to a force or civilian component or the members thereof as well as their dependents.

ARTICLE XV

1. Subject to paragraph 2 of this Article, this Agreement shall remain in force in the event of hostilities to which the North Atlantic Treaty applies, except that Article VIII shall not apply to war damage and the provisions of the Agreement, and, in particular of Articles III and VII, shall immediately be reviewed by the Contracting Parties concerned who may agree to such modifications as they may consider desirable regarding the application of the Agreement between them.

2. In the event of such hostilities, each of the Contracting Parties shall have the right, by giving 60 days notice to the other Contracting Parties, to suspend the application of any of the provisions of this Agreement so far as it is concerned. If this right is exercised, the Contracting Parties will immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

ARTICLE XVI

All differences between the Contracting Parties relating to the interpretation or application of this Agreement shall be settled by negotiation between them and there shall be no recourse to any outside jurisdiction. Except where express provision is made to the contrary in this Agreement, the Contracting Parties will make use of the machinery of the North Atlantic Council for the settlement of differences which cannot be settled by direct negotiation.

ARTICLE XVII

Any Contracting Party may at any time request the revision of any Article of this Agreement. The request shall be addressed to the Chairman of the North Atlantic Council, who shall refer the request to the Council.

ARTICLE XVIII

1. The present Agreement shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Government of the United States of America, which shall notify each signatory State of the date of deposit thereof.

2. Thirty days after four signatory States have deposited their instruments of ratification the present Agreement shall come into force between them. It shall come into force for each other signatory State thirty days after the deposit of its instrument of ratification.

3. After it has come into force, the present Agreement shall be open to accession on behalf of any State which accedes to the North Atlantic Treaty. Accession shall be effected by the deposit of an instrument of accession with the Government of the United States of America, which shall notify each signatory and acceding State of the date of deposit thereof. In respect of any State on behalf of which an instrument of accession is deposited, the present Agreement shall come into force thirty days after the date of the deposit of such instrument.

ARTICLE XIX

1. The present Agreement may be denounced by any Contracting Party after the expiration of a period of four years from the date on which the Agreement comes into force.

2. The denunciation of the Agreement by any Contracting Party shall be effected by a written notification addressed by that Party to the Government of the United States of America which shall notify all the other Contracting Parties of each such notification and the date of receipt thereof.

3. The denunciation shall take effect one year after the receipt of the notification by the Government of the United States of America. After the expiration of this period of one year, the Agreement shall cease to be in force as regards the Contracting Party which denounces it, but shall continue in force for the remaining Contracting Parties.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed the present Agreement.

Done in London this ----- day of -----, in the English and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

[There follows an Appendix, identical with the Appendix contained in the final version of the Agreement].

MS-D(51) 12

Status of Forces Agreement—Conclusions of the Working Party on Article IX (Fiscal Questions) of the Draft (19 February 1951) ¹

Note by the Secretary

Since the discussions of the fiscal experts had not succeeded in achieving agreement on direct taxation (income tax, property tax, death duties, etc.), a Working Party met on 16 February 1951 in order to go into the problem in detail and define the difficulties which it raised.

The conclusions of this Working Party, which was composed of the Representatives of Belgium, Canada, Denmark, France, the Netherlands and the United Kingdom, are summarized in the Annex below.

ANNEX

I. General Comments.

1. The chief concern of the Working Party has been to devise a taxation system of such a kind that it would ensure: first, that members of a foreign force or civilian component do not suffer loss on account of their service abroad; and secondly, that such members do not profit by undue advantages which would give the impression that they enjoy fiscal privileges.

2. The question has arisen whether it is necessary to insert provisions in the Agreement in favor of members who may already have their "fiscal domicile" in the receiving State at the time when they enter the service of the armed force or civilian component.

The majority of Representatives were of the opinion that no special measure is necessary with respect to such members for the following reasons:

- (a) We cannot concern ourselves with exceptional cases.
- (b) As a general rule, their position will be covered in any case by the operation of international conventions intended to prevent double taxation.
- (c) Should conventions of this type not exist, it would be for the Governments concerned to take the necessary steps on the bilateral level, at their discretion.

¹ Draft under discussion is that of D-D(51) 23, Article IX (23 January 1951). Article IX of that draft became Article X in MS-D(51) 11 (19 February 1951) and in all subsequent drafts.

A number of Representatives considered that the case of persons who are nationals of the receiving State should also be excluded.

II. Income Tax.

3. All the Representatives recognized that there could be no question of the receiving State taking advantage of the presence on its territory of an armed force or civilian component to increase its resources by levying a tax on the sums paid by the sending State to the members of the armed force or civilian component in remuneration for their official duties.

They noted, however, that if an exemption were granted in the receiving State, this might have the result of relieving the persons concerned from all taxation, if the legislation of the sending State did not permit the taxation of the remunerations, owing to the fact that the recipients in view of the duration of their stay abroad could no longer be regarded as having a fiscal domicile in the sending State.

4. To prevent such a situation arising, it has appeared to be necessary to lay down the principle that the mere fact that the member of an armed force or civilian component is serving in the territory of a State other than the State in which he possessed his fiscal domicile at the time when he entered the service of the force or civilian component does not imply the transfer of this fiscal domicile.

It would appear that, if such a provision were inserted into the Agreement, it should after receiving legislative approval permit the taxation of remunerations in the sending State, even when the present legislation of that State does not so authorize.

If this principle were laid down, moreover, it would not imply that the sending State is obliged to levy such taxation.

5. All the Representatives agreed that the receiving State should be entitled to levy taxation for its own benefit on those incomes other than the remunerations mentioned above, which are derived from sources in its own territory.

6. With regard to incomes derived from sources abroad, the principle laid down under paragraph 4 should logically mean that the receiving State should exempt them from taxation.

Although this view was shared by a number of Representatives, several however made reservations on this point. These Representatives considered that it was legitimate for the receiving State to tax the incomes in question insofar as they are brought into its territory, and accordingly thought that the aforementioned principle should have a restricted application. These Representatives stated that it was imperative to give further consideration to this subject.

7. It would be valuable if all the delegations present at the next

meeting of the committee of experts were in a position to state definitely whether or not their Governments are in favor of granting a complete exemption in the receiving State of incomes derived from sources outside that State.

III. Taxes on Property.

8. The draft Agreement submitted by the United States Delegation provides under Article IX, par. 1(c), that the members of a foreign force or civilian component shall be exempted from personal property taxation in the receiving State. In this connection, it specifies that the personal property of a member shall not be deemed to be located or present in the receiving State.

In the present state of the legislations of the North Atlantic countries, such taxation is levied either on personal estate, or on real estate, or on both categories of property at once.

It is true that such taxation exists only in certain countries, but the Representatives nevertheless recognize the advisability of defining the conditions under which the members of a foreign force or civilian component may be subject to such taxation.

The view was expressed by a number of Representatives that it did not seem expedient to adopt the full text of the United States proposal, which would provide total exemption from such taxation in the receiving State. It could indeed be considered unsatisfactory if the receiving State did not retain the right to impose such taxation on the personal estate and real property which might be derived from investments within its territory, though an exception might be made in favor of certain types of personal estate (for example, personal property necessary to the execution of duties or the provision of the personal accommodation of the person concerned, credit balances of bank accounts insofar as these balances can be regarded as representing part of the emoluments received by the person concerned in remuneration for his official duties).

9. The Representatives generally reserved the right to refer the question to their respective authorities, particularly in view of the fact that the matter might concern communities other than the State (provinces, "départments," municipalities).

IV. Taxation in Respect of the Occupation of Property.

10. In a number of countries taxation of this kind is levied usually for the benefit of the communities mentioned in paragraph 9.

The Working Party expressed the wish that the Delegations con-

cerned should investigate whether and how far exemption from such taxation in the receiving State should be provided.

V. Death Duties.

11. With regard to death duties, consideration might be given to the following solution.

Assuming that the principle is accepted that the presence of a member in the receiving State does not imply the transfer of the fiscal domicile, it would be provided that, in the event of his decease, the tangible movable property necessary to the said member in the exercise of his official duties or the provision of his personal accommodation shall be considered as not being situated on the territory of the receiving State—in the same way as the credit balances of banking accounts, insofar as those balances can be regarded as representing part of the emoluments received by the person concerned in remuneration for his official duties.

12. In the course of the discussion on this point, the Delegations will have to decide whether it is possible to accept the exemption envisaged above, in particular insofar as it applies to banking account balances. On this point, reservations have in any case been made by a number of Representatives.

MS-D(51) 13

Status of Forces Agreement—Portuguese Proposal for Redraft of Article VI on Criminal Jurisdiction (20 February 1951) ¹

ARTICLE VI

1. Members of a force shall be under the exclusive jurisdiction of the sending State, if indicted:

- (a) for an offence solely against a member of the armed force of the sending State or against a dependent of a member of such force;
- (b) for an offence punishable under the law of the sending State, but not punishable under that of the receiving State;
- (c) for an offence against the security of the sending State. Included in this category are treason, sabotage, espionage, and any contravention of the laws relating to the official secrets of the sending State.

¹ Previous reference: D-D(51) 23, Article VI (23 January 1951); MS-D(51) 2 (6 February 1951); MS-D(51) 5, Article VI (12 February 1951). Reference: MS(J)-R(51) 6 (22 February 1951). This was renumbered as Article VII in MS-D(51) 11 (19 February 1951) and in all subsequent redrafts.

2. Apart from the cases under paragraph 1 above, members of a contingent shall be under the criminal jurisdiction of the receiving State, even though the offence is solely punishable by the laws of that State. The authorities of the receiving State may waive the exercise of its jurisdiction in the event of the following conditions being present concurrently: that the offence is not punishable by a heavy sentence; that the sending State withdraws the offender from the receiving State; that the sending State makes provision for the immediate and direct payment to the victim of the offence of the due indemnity to be fixed by the jurisdiction of the receiving State.

3. Subject to the provisions of this Article, the military authorities of the sending State shall have the right to exercise within the receiving State all the disciplinary jurisdiction and control thereof conferred on them by the laws of the sending State over all members of its forces abroad.

4. It is the duty of the force of the sending State to respect the laws of the receiving State, and to abstain from any activity inconsistent with the spirit of the present Agreement, and in particular, from any political activity in the receiving State.

5. The authorities of the receiving State will assist those of the sending State by arresting offenders, handing them over to the authority which is to exercise jurisdiction, collecting the evidence and carrying out all other investigations necessary for the preparation of the case, and handing over documents and exhibits connected with the prosecution or the defence.

6. Whenever a member of a foreign force is prosecuted in the courts of a receiving State he shall enjoy the same treatment as that enjoyed by the nationals of the receiving State, and, specifically, he shall be entitled:

- (a) to a speedy and public trial;
- (b) to be informed in advance of trial of the specific charge or charges made against him;
- (c) to be confronted with the witnesses against him;
- (d) to secure the evidence of such persons as he may indicate, in accordance with the procedural norms of the receiving State;
- (e) to defence by a qualified advocate or counsel of his own choice, or failing such choice, appointed by the court to conduct his defence;
- (f) if he considers it necessary, to the services of a competent interpreter.

7. It shall be lawful for the sending State to police any camps, establishments or other premises which they have occupied as the

result of an agreement with the receiving State, under the following conditions:

- (a) The military police of the units or formations may take all appropriate measures to ensure the maintenance of order on such premises.
- (b) Employment of such military police outside of its premises will be subject to arrangement with the authorities of the receiving State and in liaison with those authorities, where such employment is necessary to maintain discipline and order among the members of such units or formations.

8. Upon the request of the sending State, the receiving State may promulgate such legislation as the authorities of both States agree is necessary to ensure the adequate security and protection within its territory of installations, equipment, property, records and official information of the sending State, and the punishment of persons who may contravene such laws enacted for that purpose.

MS-D(51) 14

Status of Forces Agreement—Portuguese Proposal for Redraft of Article VII on Claims (20 February 1951) ¹

ARTICLE VII

1. Each Contracting Party waives all claims for damages to any property owned by such Contracting Party and used by its Service Ministries (land, sea or air armed services) or by its armed forces, caused by a member of the armed services of any other Contracting Party while in the performance of his official duties.

Sub. Should any dispute arise as to whether the damage was caused by a member of a force while in the performance of his official duties, the matter shall be submitted to the arbitration of an umpire appointed by the President of the highest court of the receiving State.

2. No action shall lie against any Contracting Party or any member of its armed services for injury or death suffered by any member of the armed services of any Contracting Party while in the performance of his official duties.

Sub. The provisions of this paragraph shall not affect any benefits

¹ Previous reference: D-D(51) 23, Article VII (23 January 1951); MS-D(51) 4(R) (12 February 1951). Reference: MS(J)-R(51) 6 (22 February 1951). Article VII of the original draft was renumbered as Article VIII in MS-D(51) 11 (19 February 1951) and in all subsequent drafts.

which the municipal law of the receiving State may provide for members of its armed services.

3. Subject to the provisions of the two preceding paragraphs, the members of the force of a sending State shall be under the civil jurisdiction of the receiving State, unless:

- (a) the case arises from acts done in the performance of official duties directly connected with combatant activities;
- (b) the sole injured party is the sending State or a member of the latter's force.

4. Cases arising from the acts of members of a force of a sending State done in the performance of their official duties incident to non-combatant activities shall be settled in accordance with the legal provisions of the receiving State relative to claims arising from acts done by its own armed forces.

- (a) Compensation may be settled in the currency of the receiving State, which will effect its payment.
- (b) The decision of the court shall be binding on the claimant and on the Contracting Parties.
- (c) The receiving State shall provide the defence in connexion with such cases.
- (d) The cost incurred by the Contracting Parties in satisfying claims pursuant to the preceding sub-paragraph shall be taken into full account in the assessment from time to time of each nation's contribution to the security of the North Atlantic area, with a view to distributing as equitably as possible the total burden of defence measures under North Atlantic Treaty plans. In the meantime, if the cost incurred by any particular receiving State in the settlement of claims against the forces of any sending State becomes unduly burdensome or disproportionate, such cost may, at the request of the receiving State, become the subject of bilateral negotiation between the two Parties for a contribution by the sending State to the payment of such cost.

5. In cases involving payment of compensation for acts done by a member of a force of a sending State, not relating to the performance of his official duties, the receiving State may stipulate the amount of compensation payable to the claimant, having regard to all the circumstances of the case.

- (a) The authorities of the sending State shall decide, without delay and in the light of the report submitted by the receiving State, whether or not they will offer to pay the proposed compensation.
- (b) Should payment be offered, the sending State shall remit the

amount stipulated to the receiving State in order that the latter may hand it to the claimant.

- (c) The provisions of this paragraph shall affect neither the right of the injured party to have recourse to the courts of the receiving State nor the latter's jurisdiction.

D-D(51) 57

Status of Forces Agreement—Revised Draft (28 February 1951) ¹

Report of the Chairman of the Working Group

1. I have the honor to submit herewith the draft of an Agreement relative to the status of the forces of one Contracting Party to the North Atlantic Treaty serving in the territory of another Contracting Party.

2. This draft covers the same range of subjects as the corresponding Agreement arranged between the Brussels Treaty Powers, which was signed in London on 21 December 1949, but has not yet been ratified. It goes beyond the provisions of the Brussels Treaty Powers Agreement in certain respects, of which the most important are as follows:

- (a) It deals with the status of certain classes of civilians accompanying a force.
- (b) It deals in a more positive manner with the situation, in regard to the Agreement, which may be expected to arise on the outbreak of hostilities to which the North Atlantic Treaty applies (see Article XV).

3. The draft Agreement represents the greatest common measure of assent at which the Working Group could arrive as to the proposals which should be laid before the Governments of the respective Contracting Parties. The members of the Working Group, not being in a position to commit their Governments, cannot be regarded as having agreed to the several provisions of the draft of merits. During the course of our discussions they have kept in touch with their Governments, and every endeavor has been made by the Working Group to meet requests and to eliminate possible grounds of dissent. Nevertheless, the Governments of the Contracting Parties cannot be expected to form considered opinions about the provisions of the draft Agreement until they have seen the complete text as here pre-

¹ Previous reference: MS-D(51) 11(2R) (24 February 1951). References: D-R(51) 15 (2 March 1951); MS-R(51) 10-16 (19-26 April 1951).

sented. We therefore recommend that copies of the draft be sent as soon as possible to the several Governments concerned, with a request that their acceptance of it, or their observations thereon, be furnished within a limited time.

4. When replies have been received, we contemplate that it may be necessary to call a further meeting of the Working Group, with a view to revising the draft and bringing it into acceptable form.

*Draft Agreement Between the Parties to the North Atlantic
Treaty Regarding the Status of Their Forces*

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949,

Being desirous to define the status of the forces of one Party serving in the territory of another Party,

Have agreed as follows:

ARTICLE I

In this Agreement the expression—

- (a) “force” means the personnel belonging to the land, sea or air armed services of one Contracting Party when in the territory of another Contracting Party in connexion with the operation of the North Atlantic Treaty;
- (b) “civilian component” means the civilian personnel accompanying a force of a Contracting Party who are in the employ of an armed service of that Contracting Party, and who are not nationals of, nor ordinarily resident in, the State in which the force is located;
- (c) “dependent” means the spouse of a member of a force or of a civilian component, or a child of such member depending on him or her for support;
- (d) “sending State” means the Contracting Party to which the force belongs;
- (e) “receiving State” means the Contracting Party in the territory of which the force is located, whether it be stationed there or passing in transit;
- (f) “military authorities of the sending State” means those authorities of a sending State who are empowered by its law to enforce the military law of that State with respect to members of its forces or civilian components.

ARTICLE II

It is the duty of a force and its civilian component and the members thereof as well as their dependents to respect the law of the receiving State, and to abstain from any activity inconsistent with the spirit of the present Agreement, and, in particular, from any political activity in the receiving State. It is also the duty of the sending State to take necessary measures to that end.

ARTICLE III

1. On the conditions specified in paragraph 2 of this Article and subject to compliance with the formalities established by the receiving State relating to entry and departure of a force or the members thereof, such members shall be exempt from passport and visa regulations and immigration inspection on entering or leaving the territory of a receiving State. They shall also be exempt from the regulations of the receiving State on the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territories of the receiving State.

2. The following documents only will be required in respect of members of a force. They must be presented on demand:

- (a) personal identity card issued by the sending State, showing names, date of birth, rank and number (if any), service, and photograph;
- (b) individual or collective movement order, in the language of the sending State and in the English and French languages, issued by an appropriate agency of the sending State and certifying to the status of the individual or group as a member or members of a force and to the movement ordered. The receiving State may require a movement order to be countersigned by its appropriate representative.

3. Members of a civilian component and dependents shall be so described in their passports.

4. If a member of a force or civilian component leaves the employ of the sending State and is not repatriated, the authorities of the sending State shall immediately inform the authorities of the receiving State, giving such particulars as may be required. The authorities of the sending State shall similarly inform the authorities of the receiving State of any such person who has absented himself for more than 21 days.

5. If the receiving State has made an expulsion order against an ex-member of a force or of a civilian component, the authorities of the sending State shall be responsible for receiving him within their

own territory or otherwise disposing of him outside the receiving State.

ARTICLE IV

The receiving State shall either

- (a) accept as valid, without a driving test or fee, the driving permit or licence or military driving permit issued by the sending State or a sub-division thereof to a member of a force or of a civilian component; or
- (b) issue its own driving permit or licence to any member of a force or civilian component who holds a driving permit or licence issued by the sending State or a sub-division thereof, provided that no driving test shall be required.

ARTICLE V

1. Members of a force shall normally wear uniform. Regularly constituted units or formations of a force shall be in uniform when crossing a frontier.

2. Service vehicles of a force or civilian component shall carry, in addition to their registration number, a distinctive nationality mark.

ARTICLE VI

Members of a force may carry arms, on condition that they are authorised to do so by their orders. The authorities of the sending State shall give sympathetic consideration to requests from the receiving State concerning this matter.

ARTICLE VII

1. Subject to the provisions of this Article,

- (a) the military authorities of the sending State shall have the right to exercise within the receiving State all jurisdiction and control conferred on them by the law of the sending State over all persons subject to the military law of that State;
- (b) the authorities of the receiving State shall have jurisdiction over the members of a force or civilian component with respect to offences committed within the territory of the receiving State and punishable by the law of that State.

2. The military authorities of the sending State shall have the right to exercise exclusive jurisdiction over persons subject to the military law of that State with respect to offences relating to its security, but not to that of the receiving State, and to all other acts

punishable by the law of the sending State, but not by the law of the receiving State.

The authorities of the receiving State shall have the right to exercise exclusive jurisdiction over members of a force or civilian component with respect to offences relating to the security of that State, but not to the security of the sending State, and to all other acts punishable by the law of the receiving State, but not by the law of the sending State.

A security offence against a State shall include

- (a) treason against that State;
- (b) sabotage, espionage or violation of any law relating to official secrets of that State, or secrets relating to the national defence of that State.

3. In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:

- (a) The military authorities of the sending State shall have the primary right to exercise jurisdiction over a member of a force or of a civilian component in relation to
 - (i) offences solely against the property of that State, or offences solely against the person or property of another member of the force or civilian component of that State or of a dependent;
 - (ii) offences arising out of any act done in the performance of official duty [or pursuant to a lawful order issued by the military authorities of that State].²
- (b) In the case of any other offence the authorities of the receiving State shall have the primary right to exercise jurisdiction.
- (c) If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other State considers such waiver to be of particular importance.

4. A death sentence shall not be carried out in the receiving State by the authorities of the sending State if the legislation of the receiving State does not provide for such punishment in a similar case.

- 5. (a) The authorities of the receiving and sending States shall assist each other in the arrest of members of a force or

² Square brackets in original text.

civilian component in the territory of the receiving State and in handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.

(b) The authorities of the receiving State shall notify promptly the military authorities of the sending State of the arrest of any member of a force or civilian component.

(c) The custody of an accused over whom the receiving State is to exercise jurisdiction shall, if he is in the hands of the sending State, remain with that State until he is charged by the receiving State.

6. (a) The authorities of the receiving and sending States shall assist each other in the carrying out of all necessary investigations into offences, and in the collection of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offence.

(b) The authorities of the Contracting Parties shall notify one another of the results of all investigations and trials in cases where there are concurrent rights to exercise jurisdiction.

7. Where an accused has been tried by the authorities of one Contracting Party and has been acquitted, or has been convicted and is serving, or has served, his sentence, he may not be tried again for the same offence within the same territory by the authorities of another Contracting Party.

8. Whenever a member of a force or civilian component is prosecuted under the jurisdiction of a receiving State he shall be entitled:

(a) to a prompt and speedy trial;

(b) to be informed in advance of trial of the specific charge or charges made against him;

(c) to be confronted with the witnesses against him;

(d) to have compulsory process for obtaining witnesses in his favour, if within the jurisdiction of the receiving State;

(e) to defence by a qualified advocate or counsel of his own choice, or, failing such choice, appointed to conduct his defence;

(f) if he considers it necessary, to have the services of a competent interpreter; and

(g) to communicate with a representative of his Government and, when the rules of the court permit, to have such a representative present at his trial.

9. Regularly constituted military units or formations of a force shall have the right to police any camps, establishments or other premises which they have occupied as the result of an agreement with the receiving State. The military police of the force may take all

appropriate measures to ensure the maintenance of order and security on such premises.

Outside these premises, such military police shall be employed only subject to arrangements with the authorities of the receiving State and in liaison with those authorities, and in so far as such employment is necessary to maintain discipline and order among the members of such units or formations.

10. Each Contracting Party shall seek such legislation as it deems necessary to ensure the adequate security and protection within its territory of installations, equipment, property, records and official information of other Contracting Parties, and the punishment of persons who may contravene such laws enacted for that purpose.

ARTICLE VIII

1. (a) Each Contracting Party waives all its claims against any other Contracting Party for damage to any property owned by it and used by its Service Ministries (land, sea or air) caused by a member or employee of the armed forces of any other Contracting Party provided that such damage was caused by such member or employee in the execution of his duties in connexion with the operation of the North Atlantic Treaty. Such waiver shall extend to a vessel owned by a Contracting Party and used by its Service Ministries while such vessel is being used in connexion with the operation of the North Atlantic Treaty, wherever such damage shall occur, and whether it is caused by a member or employee of the armed forces of any other Contracting Party or by a vessel owned by any other Contracting Party and used by its Service Ministries in connexion with the operation of the North Atlantic Treaty. Claims for maritime salvage by one Contracting Party against any other Contracting Party shall be waived, provided that the vessel or cargo salvaged was owned by a Contracting Party and being used by its Service Ministries in connexion with the operation of the North Atlantic Treaty.
- (b) For the purpose of this paragraph the expression "owned by a Contracting Party" includes a vessel on bare boat charter to that Contracting Party or requisitioned by it on bare boat terms or otherwise in its possession (except to the extent that the risk of loss or liability is borne by some person other than such Contracting Party or its insurer).

2. In the case of damage caused as stated in paragraph 1 to other property owned by a Contracting Party, the issue of liability shall be determined and the amount of damage shall be assessed by an arbi-

trator nominated by the receiving State, after consultation with any of the other Contracting Parties involved, and chosen from amongst its own nationals who hold or have held high judicial office, and shall be distributed in accordance with paragraph 4(e) (i) and (ii) below.

Nevertheless each Contracting Party waives its claim in any such case where the damage is less than :—

Belgium	B.fr.	70,000	Luxembourg	L.fr.	70,000
Canada	\$	1,460	Netherlands	Fl.	5,320
Denmark	Kr.	9,670	Norway	Kr.	10,000
France	F.fr.	490,000	Portugal	Es.	40,250
Iceland	Kr.	22,800	United Kingdom	£	500
Italy	Li.	850,000	United States	\$	1,400

In the case of considerable variations in the rates of exchange between these currencies the Contracting Parties shall agree on the appropriate adjustments of these amounts.

3. Each Contracting Party waives all its claims against any other Contracting Party for injury or death suffered by any member of its armed services while in the performance of his official duties.

4. Claims (other than contractual claims) arising out of acts done by members of a force or civilian component in the performance of their official duties and causing damage to, or loss or destruction of, the property of persons or bodies, other than the Contracting Parties, in the territory of the receiving State, or the injury or death of individuals therein, shall be settled by the receiving State in accordance with the following provisions:

- (a) Claims shall be filed, considered and settled or adjudicated in accordance with the laws and regulations of the receiving State with respect to claims arising from the activities of its own armed forces.
- (b) The receiving State may settle any such claims, and payment of the amount agreed upon or determined by adjudication shall be made by the receiving State in its currency.
- (c) Such payment, or the final adjudication of the competent tribunals of the receiving State denying payment, shall be binding and conclusive upon the Contracting Parties.
- (d) Every claim paid by the receiving State shall be communicated to the sending States concerned together with full particulars and a proposed distribution in conformity with subparagraphs (e) (i) and (e) (ii) below. In default of a reply within two months, the proposal shall be regarded as accepted.
- (e) The cost incurred in satisfying claims pursuant to the pre-

ceding sub-paragraphs shall be distributed between the Contracting Parties, as follows:

- (i) Where one sending State alone is responsible, the amount awarded or adjudged shall be distributed in the proportion of 25% chargeable to the receiving State and 75% chargeable to the sending State.
- (ii) Where more than one State is responsible for the damage, the amount awarded or adjudged shall be distributed equally among them. However, if the receiving State is not one of the States responsible, its contribution shall be half that of each of the sending States.
- (iii) Every half-year, a statement of the sums paid by the receiving State in the course of the half-yearly period in respect of every case regarding which the proposed distribution on a percentage basis has been accepted, shall be sent to the sending States concerned, together with a request for reimbursement. Such reimbursement shall be made within the shortest possible time, in the currency of the receiving State.
- (iv) In cases where the application of the provisions of sub-paragraphs (b) and (e) would cause a Contracting Party serious hardship, it may request the North Atlantic Council to arrange a settlement of a different nature.
- (f) A member of a force or civilian component shall not be subject to any proceedings for the enforcement of any judgment given against him in the receiving State in a matter arising from the performance of his official duties.

The provisions of this paragraph shall not apply to any claim arising out of or in connexion with the navigation or operation of a ship or the loading, carriage, or discharge of a cargo.

5. Claims against members of a force or civilian component arising out of tortious acts or omissions in the receiving State not relating to the performance of their official duties shall be dealt with in the following manner. The authorities of the receiving State shall consider the claim and assess compensation to the claimant in a fair and just manner, taking into account all the circumstances of the case, including the conduct of the injured person, and shall prepare a report on the matter. The report shall be delivered to the authorities of the sending State, who shall then decide without delay whether they will offer an *ex gratia* payment, and if so, of what amount. If an offer of *ex gratia* payment is made, and accepted by the claimant in full satisfaction of his claim, the authorities of the sending State shall make the payment themselves and inform the Government of

the receiving State of their decision and of the sum paid. Nothing in this paragraph shall affect the jurisdiction of the courts of the receiving State to entertain an action against a member of a force or of a civilian component unless and until there has been payment in full satisfaction of the claim.

6. If a dispute arises whether a tortious act or omission of a member of a force or civilian component relates to the performance of his duties, the question shall be submitted to an arbitrator appointed in accordance with paragraph 2 of this Article, whose decision on this point shall be final and conclusive.

7. The sending State shall not claim immunity from the jurisdiction of the courts of the receiving State for members of a force or civilian component in respect of claims not covered by the provisions of the preceding paragraphs.

8. The authorities of the sending State and the receiving State shall cooperate in the procurement of evidence for a fair hearing and disposal of claims in regard to which the Contracting Parties are concerned.

ARTICLE IX

1. Members of a force or of a civilian component and their dependents may purchase locally goods necessary for their own consumption, and such services as they may need, under the same conditions as the nationals of the receiving State.

2. Goods which are required from local sources for the subsistence of a force or civilian component shall normally be purchased through the authorities which purchase such goods for the armed services of the receiving State. In order to avoid such purchases having any adverse effect on the economy of the receiving State, the competent authorities of this State shall indicate, when necessary, any articles the purchase of which should be restricted or forbidden.

3. After agreement between the authorised representatives of the sending and receiving States, the authorities of the receiving State shall assume sole responsibility for making suitable arrangements to make available to a force or civilian component the buildings and grounds which it requires, as well as facilities and services connected therewith. These agreements and arrangements shall be, as far as possible, in accordance with the regulations governing the accommodation and billeting of similar personnel of the receiving State. In the absence of a specific contract to the contrary, the laws of the receiving State shall determine the rights and obligations arising out of the occupation or use of the buildings, grounds or facilities.

4. Local civilian labour requirements of a force or civilian component shall be satisfied in the same way as the comparable require-

ments of the receiving State and with the assistance of the authorities of the receiving State through the employment exchanges. The conditions of employment and work, in particular wages, supplementary payments and conditions for the protection of workers, shall be those laid down by the legislation of the receiving State. Such civilian workers employed by a force or civilian component shall not be regarded for any purpose as being members of that force or civilian component.

5. When a force or a civilian component has at the place where it is stationed inadequate medical or dental facilities, their members and their dependents may receive medical and dental care, including hospitalisation, under the same conditions as comparable personnel of the receiving State.

6. The receiving State shall give the most favourable consideration to requests for the grant to members of a force or of a civilian component of travelling facilities and concessions with regard to fares. These facilities and concessions will be the subject of special arrangements to be made between the Governments concerned.

7. Subject to any general or particular financial arrangements between the Contracting Parties, payment in local currency for goods, accommodation and services furnished under paragraphs 2, 3, 4 and, if necessary, 5 and 6, shall be made promptly by the authorities of the force.

8. Neither a force, nor a civilian component, nor the members thereof, nor their dependents, shall by reason of this Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the receiving State.

ARTICLE X

1. Where the incidence of any form of taxation in the receiving State depends upon residence or domicile, periods during which a member of a force or civilian component is in the territory of that State by reason solely of his being a member of such force or civilian component shall not be considered as periods of residence therein, or as creating a change of domicile, for the purposes of such taxation. Members of a force or civilian component shall be exempt from taxation in the receiving State on the salary and emoluments paid to them as such members by the sending State or on any tangible movable property the presence of which in the receiving State is due solely to their temporary presence there.

2. Nothing in this Article shall prevent taxation of a member of a force or civilian component with respect to any profitable enterprise,

other than his employment as such member, in which he may engage in the receiving State.

3. Nothing in this Article shall apply to "duty" as defined in paragraph 12 of Article XI.

ARTICLE XI

1. Save as provided expressly to the contrary in this Agreement, members of a force and of a civilian component as well as their dependents shall be subject to the laws and regulations administered by the customs authorities of the receiving State. In particular the customs authorities of the receiving State shall have the right, under the general conditions laid down by the laws and regulations of the receiving State, to search members of a force or civilian component and their dependents and to examine their luggage and vehicles, and to seize articles pursuant to such laws and regulations.

2. The temporary importation and the re-exportation of service vehicles shall be authorised free of duty on presentation of a triptyque in the form shown in the Appendix to this Agreement. These vehicles shall be exempt from any tax payable in respect of the use of vehicles on the roads.

3. Official documents under official seal shall not be subject to customs inspection. Couriers, whatever their status, carrying these documents must be in possession of an individual movement order, issued in accordance with Article III. This movement order shall show the number of despatches carried and certify that they contain only official documents.

4. The authorities of a force may import free of duty the equipment for that force and reasonable quantities of provisions, supplies and other goods for the exclusive use of that force and, in cases where such use is permitted, its civilian component and dependents. This duty-free importation shall be subject to the deposit, at the customs office for the place of entry, together with the customs documents, of a certificate signed by an official of the sending State authorised for that purpose. The list of the officials authorised to sign the certificates, as well as specimens of their signatures and the stamps used, shall be sent to the customs authorities of the receiving State.

5. Members of a force or civilian component may at the time of first arrival to take up service in the receiving State import free of duty for the term of such service their personal effects and furniture.

6. Members of a force or civilian component may import temporarily free of duty their private motor vehicles for the personal use of themselves and their dependents. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

7. Imports made by the authorities of a force other than for the exclusive use of that force and its civilian component, and imports, other than those dealt with in paragraphs 5 and 6 of this Article, effected by members of a force or civilian component, are not, by reason of this Article, entitled to any exemption from duty or other conditions.

8. Goods which have been imported duty-free under paragraphs 4, 5 or 6 above:

- (a) may be re-exported freely, provided that, in the case of goods imported under paragraph 4, a certificate, issued in accordance with that paragraph, is presented to the customs office: the customs authorities, however, may verify that goods re-exported are as described in the certificate, if any, and have in fact been imported under the conditions of paragraph 4, 5 or 6 as the case may be;
- (b) shall not normally be disposed of in the receiving State by way of either sale or gift: however, in particular cases such disposal may be authorised on conditions imposed by the customs authorities (for instance on payment of duty and tax and compliance with the requirements of the controls of trade and exchange).

9. Goods purchased in the receiving State shall be exported therefrom only in accordance with the regulations in force in the receiving State.

10. Special arrangements for crossing frontiers shall be granted by the customs authorities to regularly constituted units or formations, provided that the customs authorities concerned have been duly notified in advance.

11. Special arrangements shall be made by the receiving State so that fuel, oil and lubricants for use in service vehicles, aircraft and vessels of a force or civilian component may be delivered free of all duties and taxes.

12. In paragraphs 1–10 of this Article “duty” means customs duties and all other duties and taxes payable on importation or exportation, as the case may be.

ARTICLE XII

1. The customs or fiscal authorities of the receiving State may, as a condition of the grant of any customs or fiscal exemption or concession provided for in this Agreement, require such conditions to be observed as they may deem necessary to prevent abuse.

2. These authorities may refuse any exemption provided for by this Agreement in respect of the importation into the receiving State of articles grown, produced or manufactured in that State which

have been exported therefrom without payment of, or upon repayment of, taxes and duties which would have been chargeable but for such exportation. Goods removed from a customs warehouse shall be deemed to be imported if they were regarded as having been exported by reason of being deposited in the warehouse.

ARTICLE XIII

1. In order to prevent offences against customs and fiscal laws and regulations, the customs and fiscal authorities of the receiving and of the sending States shall assist each other in the conduct of enquiries and the collection of evidence.

2. The authorities of a force shall render all assistance within their power to ensure that articles liable to seizure by, or on behalf of, the customs or fiscal authorities of the receiving State are handed to those authorities.

3. The authorities of a force shall render all assistance within their power to ensure the payment of duties, taxes and penalties payable by members of the force or civilian component or their dependents.

4. Service vehicles and articles belonging to a force or to its civilian component seized by the authorities of the receiving State in connexion with an offence against its customs or fiscal regulations shall be handed over to the appropriate authorities of the force concerned.

ARTICLE XIV

1. A force, a civilian component and the members thereof, as well as their dependents, shall remain subject to the foreign exchange regulations of the sending State and shall also be subject to the regulations of the receiving State.

2. The foreign exchange authorities of the sending and the receiving States may issue special regulations applicable to a force or civilian component or the members thereof as well as to their dependents.

ARTICLE XV

1. Subject to paragraph 2 of this Article, this Agreement shall remain in force in the event of hostilities to which the North Atlantic Treaty applies, except that the provisions for settling claims in paragraphs 2, 4, and 5 of Article VIII shall not apply to war damage, and that the provisions of the Agreement, and in particular of Articles III and VII, shall immediately be reviewed by the Contracting Parties concerned, who may agree [to] such modifications as they may consider desirable regarding the application of the Agreement between them.

2. In the event of such hostilities, each of the Contracting Parties shall have the right, by giving 60 days notice to the other Contracting Parties, to suspend the application of any of the provisions of this Agreement so far as it is concerned. If this right is exercised, the Contracting Parties shall immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

ARTICLE XVI

All differences between the Contracting Parties relating to the interpretation or application of this Agreement shall be settled by negotiation between them without recourse to any outside jurisdiction. Except where express provision is made to the contrary in this Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Treaty Organization.

ARTICLE XVII

Any Contracting Party may at any time request the revision of any Article of this Agreement. The request shall be addressed to the Chairman of the North Atlantic Council, who shall refer the request to the Council.

ARTICLE XVIII

1. The present Agreement shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Government of the United States of America, which shall notify each signatory State of the date of deposit thereof.

2. Thirty days after four signatory States have deposited their instruments of ratification the present Agreement shall come into force between them. It shall come into force for each other signatory State thirty days after the deposit of its instrument of ratification.

3. After it has come into force, the present Agreement shall be open to accession on behalf of any State which accedes to the North Atlantic Treaty. Accession shall be effected by the deposit of an instrument of accession with the Government of the United States of America, which shall notify each signatory and acceding State of the date of deposit thereof. In respect of any State on behalf of which an instrument of accession is deposited, the present Agreement shall come into force thirty days after the date of the deposit of such instrument.

ARTICLE XIX

1. The present Agreement may be denounced by any Contracting Party after the expiration of a period of four years from the date on which the Agreement comes into force.

2. The denunciation of the Agreement by any Contracting Party shall be effected by a written notification addressed by that Contracting Party to the Government of the United States of America, which shall notify all the other Contracting Parties of each such notification and the date of receipt thereof.

3. The denunciation shall take effect one year after the receipt of the notification by the Government of the United States of America. After the expiration of this period of one year, the Agreement shall cease to be in force as regards the Contracting Party which denounces it, but shall continue in force for the remaining Contracting Parties.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed the present Agreement.

Done in London this ----- day of -----, in the English and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

D-D(51) 58

Agreement on the Status of NATO, National Representatives and International Staff—Original Draft Submitted by the United Kingdom (1 March 1951) ¹

Memorandum by the United Kingdom Deputy

At their meeting of 8 August 1950, the Council Deputies approved the report of the subcommittee set up to consider the question of the Status of NATO, National Representatives and International Staff, and agreed that the most satisfactory method of dealing with this problem would be for member Governments to conclude an international Agreement on the subject. The Deputies also agreed that the United Kingdom authorities should prepare the draft of such an Agreement.

This draft has now been drawn up, and a copy of it is attached.

¹ References: D-R(51) 15 (2 March 1941); D-R(51) 20 (13 March 1951); MS-R(51) 7-9 (16-17 April 1951).

It largely follows the lines of the International Convention on Privileges and Immunities for the Specialized Agencies of the United Nations.²

It is my understanding that it was agreed by the Deputies at their meeting on 26 February 1951 that each Deputy would now forward the draft Agreement to his Government for the latter's observations. A few weeks later a subcommittee or working group, composed of experts from all those Governments which wished to be represented, would be assembled to consider the comments of the various Governments and to draw up an agreed draft text for submission to Governments.

*General Agreement on Privileges and Immunities
of the North Atlantic Treaty Organisation*

The States signatory to the present Agreement,

Considering that, for the exercise of their functions and the fulfillment of their purposes, it is necessary that the Council and its subsidiary bodies established under Article 9 of the North Atlantic Treaty, their officials and the representatives of Member States attending meetings thereof should have the privileges and immunities set out hereunder,

Have agreed as follows:

PART I.—GENERAL

ARTICLE 1

In the present Agreement,

- (a) "the Council" means the organisation established by Article 9 of the North Atlantic Treaty including, unless the context requires otherwise, its subsidiary bodies;
- (b) "subsidiary bodies" means the Council Deputies and any other organ or committee which, having been established by the Council, may from time to time be in existence;
- (c) for the purposes of Part V, "representatives" means representatives and their alternates.

PART II.—PERSONALITY AND CAPACITY

ARTICLE 2

The Secretary of the Council shall co-operate at all times with the competent authorities of Member States to facilitate the proper ad-

² 33 UNTS 262 (21 November 1947).

ministration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connexion with the privileges and immunities set out in the present Agreement.

ARTICLE 3

The Council shall possess juridical personality; it shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings.

In these matters the Secretary of the Council shall, where appropriate, act on behalf of the Council.

PART III.—PROPERTY, FUNDS AND ASSETS

ARTICLE 4

The Council, its property and assets, wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process, except in so far as in any particular case it, or the Council Deputies on its behalf, may expressly authorise the waiver of this immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution or detention of property.

ARTICLE 5

The buildings and premises of the Council shall be inviolable. Its property and assets, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of interference, whether by administrative, judicial or legislative action.

ARTICLE 6

The archives of the Council and in general all documents belonging to it or held by it shall be inviolable, wheresoever located.

ARTICLE 7

Without being restricted by financial controls, regulations or moratoria of any kind,

- (a) the Council may hold currency of any kind and operate accounts in any currency;
- (b) the Council may freely transfer its funds from one country to another or within any country and convert any currency held by it into any other currency.

In exercising its rights under sub-paragraphs (a) and (b) above, the Council shall pay due regard to any representations made by any Member State and shall give effect to such representations in so far as it is practicable to do so.

ARTICLE 8

The Council, its assets, income and other property shall be exempt :

- (a) from all direct taxes; the Council will not, however, claim exemption from rates, taxes or dues which are no more than charges for public utility services;
- (b) from all customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Council for its official use; articles imported under such exemption shall not be sold in the country into which they are imported, except under conditions approved by the Government of that country;
- (c) from all customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

ARTICLE 9

While the Council will not as a general rule claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the Council is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Member States will whenever possible make the appropriate administrative arrangements for the remission or return of the amount of duty or tax.

PART IV.—COMMUNICATIONS

ARTICLE 10

No censorship shall be applied to the official correspondence and other official communications of the Council.

The Council shall have the right to use codes and to despatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

Nothing in this Article shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a Member State and the Council.

PART V.—
REPRESENTATIVES OF MEMBER GOVERNMENTS

ARTICLE 11

Representatives of Member States on the Council and its subsidiary bodies shall, while exercising their functions, enjoy the following privileges and immunities:

- (a) immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and of acts done by them in their official capacity, immunity from legal process;
- (b) inviolability for all papers and documents;
- (c) the right to use codes and to receive papers or correspondence by couriers or in sealed bags;
- (d) exemption in respect of themselves and their spouses from immigration restrictions, aliens' registration or national service obligations in the State in which they are visiting or through which they are passing in the exercise of their functions;
- (e) the same facilities in respect of currency or exchange restrictions as are accorded diplomatic representatives of comparable rank;
- (f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic representatives of comparable rank;
- (g) the right to import free of duty their furniture and effects at the time of first arrival to take up their post in the country in question, and on the termination of their functions in that country, to remove such furniture and effects free of duty to their future country of residence.

ARTICLE 12

In order to secure for the representatives of Member States at meetings of the Council and of its subsidiary bodies complete freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and of acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.

ARTICLE 13

Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Member States at

meetings of the Council or of its subsidiary bodies are present in the territory of a Member State for the discharge of their duties shall not be considered as periods of residence. In particular, they shall be exempt from taxation on their official salary and emoluments during such periods of duty.

ARTICLE 14

Privileges and immunities are accorded to the representatives of Member States, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connexion with the North Atlantic Treaty. Consequently, a Member State not only has the right, but is under a duty, to waive the immunity of its representatives in any case where, in its opinion, the immunity would impede the course of justice and it can be waived without prejudice to the purposes for which the immunity is accorded.

ARTICLE 15

The provisions of Articles 11 to 13 above shall not require any State to grant any of the privileges or immunities referred to therein to any person who is its national or is or has been its representative.

PART VI.—OFFICIALS OF THE COUNCIL

ARTICLE 16

The categories of officials of the Council to which this Part of the Agreement applies shall be determined between the Secretary of the Council and the Governments of Member States.

ARTICLE 17

Officials of the Council to whom this Part of the Agreement applies shall:—

- (a) be immune from legal process in respect of words spoken or written or acts done by them, in their official capacity and within the limits of their authority; they shall continue to be so immune after completion of their functions as officials of the Council;
- (b) be exempt from taxation on the salaries and emoluments paid to them in their capacity as such officials;
- (c) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and aliens' registration;
- (d) be accorded the same privileges in respect of currency or ex-

change restriction as are accorded to officials of comparable rank of diplomatic missions;

- (e) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as officials of comparable rank of diplomatic missions;
- (f) have the right to import free of duty their furniture and effects at the time of first arrival to take up their post in the country in question, and, on the termination of their functions in that country, to remove such furniture and effects free of duty to their future country of residence.

ARTICLE 18

Officials of the Council to whom this Part of the Agreement applies shall be exempt from national service obligations; provided that, in relation to the States of which they are nationals, such exemption shall be confined to officials whose names have, by reason of their duties, been placed upon a list compiled by the Secretary of the Council and approved by the Government concerned.

Should other officials be called up for national service, the Government concerned shall, at the request of the Secretary of the Council, grant such temporary deferments in the call-up of such officials as may be necessary to avoid interruption in the continuation of essential work.

ARTICLE 19

Privileges and immunities are accorded to officials in the interests of the Council and not for the personal benefit of the individuals themselves. The Secretary of the Council shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the Council. In the case of the Secretary of the Council, the Council, or the Council Deputies on its behalf, shall have the right to waive immunity.

PART VII.—EXPERTS ON MISSIONS FOR THE COUNCIL

ARTICLE 20

Experts (other than officials coming within the scope of Part VI) employed on missions on behalf of the Council shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions during the period of their

service, including the time spent on journeys in connexion with such service:

- (a) immunity from personal arrest or detention and from seizure of their personal baggage;
- (b) in respect of words spoken or written or acts done by them in the performance of their official functions for the Council, immunity from legal process, such immunity to continue notwithstanding that the persons concerned are no longer employed on missions on behalf of the Council;
- (c) the same facilities in respect of currency or exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign Governments on temporary official missions;
- (d) inviolability for all papers and documents relating to the work on which they are engaged for the Council.

ARTICLE 21

Privileges and immunities are accorded to experts in the interests of the Council and not for the personal benefit of the individuals concerned. The Secretary of the Council shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the Council.

PART VIII.—ABUSE OF PRIVILEGES

ARTICLE 22

Representatives of Member States at meetings of the Council and of its subsidiary bodies, while exercising their functions and during their journeys to and from the place of meetings, officials to whom Part VI of this Agreement applies and experts to whom Part VII applies, shall not be required by the territorial authorities to leave the country in which they are performing their functions on account of any activities by them in their official capacity. In the case, however, of abuse of privileges of residence committed by any such person in activities in that country outside his official functions, he may be required to leave by the Government of that country, provided that:

- (a) representatives of Member States shall not be required to leave the country otherwise than in accordance with the diplomatic procedure applicable to diplomatic representatives accredited to that country;

- (b) in the case of an official or expert no order to leave the country shall be issued other than with the approval of the Foreign Minister of the country in question, and such approval shall be given only after consultation with the Secretary of the Council, and, if expulsion proceedings are taken against any such person, the Secretary shall have the right to appear in such proceedings on behalf of the person against whom they are instituted when they are of a judicial character, and when the matter is dealt with administratively he shall have the right to make representations in writing to the administrative authorities concerned.

PART IX.—SETTLEMENT OF DISPUTES

ARTICLE 23

The Council, or the Council Deputies on its behalf, shall make provision for appropriate modes of settlement of:—

- (a) disputes arising out of contracts or other disputes of private character to which the Council is a party;
- (b) disputes involving any official of the Council, or any expert to whom Part VII of the Agreement applies, who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with the provisions of Articles 19 or 21.

PART X.—SUPPLEMENTARY AGREEMENTS

ARTICLE 24

The Council, or the Council Deputies on its behalf, may conclude with any Member State or States supplementary agreements modifying the provisions of the present Agreement, so far as that State or those States are concerned.

PART XI.—FINAL PROVISIONS

ARTICLE 25

The present Agreement shall remain open for signature by Member States of the Council and shall be subject to ratification. Instruments of ratification shall be deposited with the Government of the United States of America which will notify all signatory States of each such deposit.

As soon as nine signatory States have deposited their instruments of ratification, the present Agreement shall come into force in respect

of those States. It shall come into force, in respect of each other signatory State, on the date of the deposit of its instrument of ratification. Nevertheless, pending the entry into force of the Agreement, in accordance with the provisions of the preceding paragraph, the signatories agree, in order to avoid any delay in the efficient working of the Council, to apply it provisionally from the date of signature, so far as it is possible to do so under their respective constitutional systems.

In witness whereof the undersigned plenipotentiaries, being duly authorised to that effect, have signed the present Agreement.

Done at (place) this ----- day of (month, year) in French and in English, both texts being equally authoritative, in a single copy which shall be deposited in the archives of the Government of the United States of America, which will transmit a certified copy to each of the signatories.

MS-D(51) 15

Status of Forces Agreement—Amendments Proposed by Canada (3 April 1951) ¹

1. The following are the views of the Canadian Government concerning the draft Agreement on the Status of NATO Armed Forces.

2. Subject to further consideration with respect to existing bilateral arrangements with other parties to the North Atlantic Treaty, the Government of Canada is, in general, disposed to accept the text of the draft Agreement contained in D-D(51) 57, of 28 February, 1951, but has the following suggestions and comments to make on the details of the draft Agreement.

3. It would be most desirable to confer on a receiving State a primary right to exercise jurisdiction over a member of a force or civilian component who carried out his superior's order in an unlawful manner which resulted in injury or damage. It is suggested that this might best be accomplished by substituting for the existing words in Article VII, paragraph 3(a)(ii), the following clause:

“Acts or omissions done or omitted pursuant to an order issued by a military superior of that State and carried out according to the tenor thereof.”

¹ Reference: D-D(51) 57 (28 February 1951). See also MS-R(51) 10-14 (19-24 April 1951). The paragraphs in the above document have been renumbered consecutively by the editor.

4. The following amendments to Article VII are also suggested in order to make the drafting conform :

- (a) In paragraph 3(a) (i), delete the word, "offences," wherever it occurs and substitute the words, "acts or omissions."
- (b) In paragraph 3(b), delete the word, "offences," and substitute the words, "acts or omissions."
- (c) Delete paragraph 7, and substitute the following :
 "7. Where an accused has been tried in respect of any act or omission by the authorities of one Contracting Party and has been acquitted or convicted and is serving or has served his sentence, he may not be tried again in respect of the same act or omission within the same territory by the authorities of another Contracting Party."
- (d) In order to provide against possible injustice to members of a force or civilian component serving in a territory which ascribes to an offense a more severe penalty than the sending State does, the following paragraph should be added to Article VII, possibly after paragraph 3 :

"In any case where a court of the receiving State exercises jurisdiction over a member of a force or a civilian component of a sending State, the court shall, when passing sentence, take into account the penalty which would normally be imposed under the law of the sending State for a similar offence."

5. In order to prevent possible abuse of privileges and to render administration easier, the term, "authorities of a force," used in Article XI, paragraph 4, should be defined so that a single organization or individual will be responsible for certifying that an importer under the paragraph is entitled to free entry privileges under the Agreement.

6. Consideration should be given to allowing the free importation of personal effects and furniture at the time of first arrival of dependents of members of a force or civilian component as well as at the time of first arrival of the members themselves.

7. Consideration should be given to extending the tax exemptions of Article X to the dependents of members of a force or of a civilian component.

8. It would be desirable to include in the draft Agreement an Article in the following sense :

"The Contracting Parties agree that any reservations to this Agreement shall be made not later than the date of signature."

9. There are, in addition, a number of smaller points of drafting which I will raise at the meeting of the Working Group on 16 April.

MS-D(51) 16**Status of Forces Agreement—Amendments Proposed by Portugal
(4 April 1951) ¹****ARTICLE I**

1. Subparagraph (a). Proposed to add to this subparagraph, after “North Atlantic Treaty,” the words “and who are not nationals of, nor ordinarily resident in, the State in which the force is located.”

ARTICLE III

2. In paragraph 1, it is proposed that the words “and immigration inspection” be deleted.

ARTICLE V

3. It is proposed to add, at the end of the first sentence of paragraph 1, the words “but may wear civilian dress, on the same conditions as members of the forces of the receiving State.”

ARTICLE VI

4. It is proposed that this Article be worded as follows (wording adopted for the Brussels Pact):

Members of a force shall be assimilated to the military personnel of the receiving State in the matter of the application of the laws and regulations relating to the possession and carriage of arms.

ARTICLE VII

5. For paragraph 1(a), the following wording is proposed:

The military authorities of the sending State shall have the right to exercise within the receiving State all criminal and disciplinary jurisdiction over all members of their forces and of their civilian component, conferred on them by the law of the State.

6. Paragraph 3(a)(ii). It would be preferred to omit this subparagraph.

7. In paragraph 7, insert the word “duly” after “has been” and before “tried,” and add the following sentence: “In the case of an offence punishable by a heavy sentence, the receiving State may

¹ Reference: D-D(51) 57 (28 February 1951). See also MS-R(51) 10-14 (19-24 April 1951). The paragraph numbers in the above document have been added by the editor.

require the accused's removal, whether he has been convicted or acquitted."

ARTICLE VIII

8. In paragraph 1(a), insert "intentionally" after "caused" and before "by a member."

9. In paragraph 2 (second sentence), insert "has not been caused intentionally and" after "the damage" and before "is less than."

10. In paragraph 3, it is proposed that the following wording be adopted:

Each Contracting Party waives all its claims against any other Contracting Party for injury or death suffered by any member of its armed forces, while the victim was engaged in the performance of his official duties.

11. In paragraph 4(e) (i), it is proposed that the percentages be fixed at 15% and 85%.

12. In paragraph 4(e) (ii), the following wording is proposed for the last part of this subparagraph: "However, if the receiving State is not one of the States responsible, its contribution shall amount to 10%, and in no case shall it be greater than half that of each of the sending States."

13. In paragraph 5, the following wording is proposed for the fourth sentence of this paragraph:

If an offer of *ex gratia* payment is made, and accepted by the claimant in full satisfaction of his claim, the authorities of the sending State shall send the appropriate amount to the authorities of the receiving State in order that the latter may make the payment.

MS-D(51) 17

Status of Forces Agreement—Observations by the Belgian Government (5 April 1951) ¹

1. In view of the compromise nature of the draft Agreement on the Status of NATO Forces, the Belgian Government deem that they can agree to the general form and content of the draft. They nevertheless desire to see the text amended with respect to a number of points, as described below.

¹ Reference: D-D(51) 57 (28 February 1951). See also MS-R(51) 10-14 (19-24 April 1951). The paragraph numbers in the above document have been added by the editor.

ARTICLE I(e)

2. The definition of "receiving State" should mention the civilian personnel on an equal footing with the force.

ARTICLE IV(b)

3. As in subparagraph (a), it would appear advisable to mention not only the "driving permit," but also "the military driving permit" issued by the sending State.

ARTICLE VI

4. The Belgian authorities suggest the addition of the following phrase: "Arms shall be carried in such a way that they are visible."

ARTICLE VII

5. Paragraph 1(a). The Belgian Government propose that the words: "over all persons subject to the military law of that State" should be replaced by the following words: "over members of the force and civilian component of that State and over their dependents."

In Belgian law, as in many other legislative systems, the fact of subjection to military law and the right of military courts to exercise jurisdiction are two distinct concepts which do not cover the same ground. It is inconceivable that military courts, sitting in the territory of another State, should not have the power to try persons under their jurisdiction, whether or not those persons are subject to military law, whenever the authorities of the receiving State waive the primary right to exercise jurisdiction.

If this proposal were accepted, it would be necessary to make similar amendments to subparagraph (b) of the same paragraph, and also to paragraph 2 of the same Article.

6. Paragraph 3(a). The text should specify over which persons the military authorities of the sending State have the primary right to exercise jurisdiction and should state explicitly that such persons are those who are subject to the military law of that State. It appears necessary to make a statement to this effect if the text is to be clear, on account of the fact that the persons over whom exclusive jurisdiction is exercised are not always the same in the various cases.

7. Paragraph 5(c). Whereas the English text describes the persons who are held in custody by the authorities of the sending State by the word "accused," the French text specifies that such persons

are members of a force or civilian component. It would seem desirable that the same specification should also appear in the English text.

ARTICLE VIII

8. Paragraph 1(a). The terms "member or employee" might give rise to difficulties of interpretation. It would appear more logical to abide by the terminology of Article I.

ARTICLE IX

9. Paragraph 4. The last sentence in the French text should correspond to the English text and therefore read as follows: "Ces travailleurs civils employés par une force armée or par des civils faisant partie de cette force, ne sont considérés en aucun cas comme membres de cette force armée or comme personnel civil faisant partie de celle-ci."

The Belgian authorities consider that this sentence clarifies the definition and bearing of the term "civilian component," particularly as used in Article I and Article X.

ARTICLE XI

10. Paragraph 2. In the French text, the words "en franchise de tous droits et taxes" should be replaced by the words "en franchise des droits."

11. Paragraph 3. In the French text, the words "sous pli scellé" and "conditions indiquées à l'article 2" should be replaced respectively by the words: "sous pli scellé d'un sceau officiel" and "conditions indiquées à l'article III."

12. Paragraph 4. The words "an official" and "the officials" should be replaced respectively by the words "a person" and "the persons."

13. Paragraph 5. The Belgian authorities consider that the text should return to the wording of document MS-D(51) 9, of 16 February 1951, with the exception of the last sentence.

14. Paragraph 6. In the French text, the words "peuvent bénéficier de la franchise des droits en cas d'importation temporaire de véhicules privés" should be replaced by the words "peuvent bénéficier de la franchise temporaire des droits en cas d'importation de véhicules privés."

ARTICLE XIII

15. Paragraph 4. The Belgian Administration considers that this Article applies to the restitution of vehicles and articles belonging to the "force" or "civilian component," but the text should be worded

in such a way that it does not imply the obligation to hand over the vehicles and articles belonging to members of the "force" or "civilian component."

16. The Belgian Government feel bound to point out that the wording of the French text could be improved and, moreover, that in some respects the French text differs from the English text. Discrepancies appear in the following Articles in particular:

IV (b); V, paragraph 2; VII, paragraph 5(a); X, paragraphs 1-2; XIII, paragraph 4.

The Belgian Government propose that a drafting committee should be charged with the revision of the French text and with its correction where necessary to reconcile it with the English text.

MS-D(51) 18

Status of Forces Agreement—Preliminary Observations by the Danish Government (5 April 1951) ¹

I. Proposed Amendment to Article VII.

1. The Danish Government assume that the sole purpose of the draft Agreement is to regulate the status of members of a "force" or a "civilian component" and, to a certain extent, of "dependents" of the Contracting Parties. It is, therefore, assumed that the jurisdictional provisions of the draft do not purport to grant any authority to exercise jurisdiction over any person who is not a member of its force or civilian component. This interpretation of Article VII is presupposed in the definition contained in Article I(f) of the draft, and in the provision in paragraph 8 of Article VII, which also seems to appear from NATO documents MS(J)-R(51) 6, paragraph 11.

In the opinion of the Danish Government there exists, however, the possibility that, apart from the context, the provisions in paragraph 1(a), paragraph 2 (1st subsection), and paragraph 3(b), might be interpreted as granting to the military authorities of the sending State the right to exercise jurisdiction (as regards paragraph 3(b), subsidiary jurisdiction) even over nationals and permanent residents of the receiving State, i.e., to the extent to which these

¹ Reference: D-D(51) 57 (28 February 1951). See also MS-R(51) 10-14 (19-24 April 1951). The paragraph numbers in the above document have been added by the editor.

persons, in time of peace or war, come under the military law of the sending State. In order to clarify this matter beyond all doubt, the following alternative amendments to Article VII are submitted:

(a) In paragraph 1(a) and paragraph 2 (1st subsection), the words, "all persons subject to the military law of that State," and "persons subject to the military law of that State," should be substituted for by "members of their force or civilian component"; or

(b) In paragraph 1(a) and paragraph 2 (1st subsection), the words, "all persons" and "persons" should be substituted for by "members of their force or civilian component"; or

(c) A new paragraph should be inserted before the present paragraph 4:

"The above provisions shall not imply any right for the military authorities of the sending State to exercise jurisdiction over persons who are nationals of or permanent residents in the receiving State, unless they are members of the forces of the sending State."

II. Points for Clarification and Elaboration.

ARTICLE III, par. 4

2. The second sentence of this paragraph raises the question of the action to be taken by the receiving State regarding deserters. It might be appropriate to include in this paragraph provisions specifying the right of the receiving State to detain and extradite to the sending State any deserters notified to the receiving State in accordance with the second sentence of this paragraph. It should also be clarified whether the receiving State is under any general obligation to detain and extradite such deserters, or whether such detention and extradition shall only take place on request.

ARTICLE VIII

3. There would appear to be some doubt about the scope of this Article, particularly whether the rules contained therein apply only to Government vessels proper or also to privately owned vessels operating under the authority of the NATO Defense Shipping Authority.

ARTICLE X

4. It is felt that paragraph 2 of this Article should be deleted. The taxation authorized in this paragraph would seem to be already

provided for in paragraph 1. If paragraph 2 is retained, the Danish Government would suggest that the wording of the paragraph be altered so as to indicate that nothing shall prevent the receiving State from levying taxes on members of a force or civilian component in accordance with the regulations governing the taxation of persons residing outside the receiving State. This might be done by inserting the words "e.g." between "shall" and "prevent."

ARTICLE XI, par. 4

5. This paragraph deals exclusively with the exemption from duty on equipment, etc., imported by forces into the receiving State. The question of compliance with other laws and regulations governing the import of goods would seem to merit further study by the Working Group.

ARTICLE XI, par. 8(b)

6. It is suggested that the words "the customs authorities" be amended to read: "the authorities concerned."

MS-D(51) 19

Status of Forces Agreement—Observations by the French Government (7 April 1951) ¹

The French Government herewith signify their agreement to the general lines of the draft prepared on 28 February 1951, subject to a number of observations bearing on general and particular points, as follows.

I. General Observations.

1. In the course of the discussions of the Working Group, it was frequently recalled that the provisions regarding the Status of Forces prejudged neither questions relating to the entry or stationing of forces nor those relating to the facilities made available to those forces by the receiving State. Although it does not appear that any hesitation on this point was expressed by any member of the Working Group, the question arises whether it would not be advisable to recall in the draft Agreement on the Status the necessity

¹ Reference: D-D(51) 57 (28 February 1951). See also MS-R(51) 10-14 (19-24 April 1951). The paragraphs in the above document have been renumbered consecutively by the editor.

of entering into special agreements to settle problems of this kind.

2. The French Government fully appreciate the efforts which have been made, both in drawing up the draft itself and in recording the discussions, to establish an exact definition of the civilian component of the forces. While they are willing to grant such civilians the privileges which are provided by certain clauses of the Agreement and which are sometimes very considerable, the French Government consider that it would be very desirable to clarify this definition still further by specifying that the civilian component of a force should possess the nationality of the sending State.

3. The French text of D-D(51) 57 calls for a number of observations by the French Delegation, which do not affect the English text and will be communicated directly to the Secretariat.

II. Observations on Particular Points.

ARTICLE VI

4. Mention should be made of the possession of arms as well as of the carriage of arms, in order that members of a force be authorized not only to carry their arms but also to have them in their possession.

5. It would be advisable,—without it being necessary, however, to include a statement to that effect in the text of the Agreement,—to request SHAPE to draw up as comprehensive a set of regulations as possible concerning the carriage of arms, for the use of the forces of the various Parties to the Treaty, with a view to standardizing as far as possible the individual regulations dealing with the matter and thus to facilitating the application of the provisions of the Agreement.

ARTICLE VII, par. 7

6. It would appear to be consistent with justice and general legal principles, to regard the pardon of a convicted individual as equivalent to the fact that he has served his sentence.

ARTICLE VIII, par. 4

7. The specifications which appear in this paragraph regarding the type of damage or loss should in no case be restrictive, and moreover they are too indefinite. Furthermore, they are unnecessary, since subparagraph (a) refers to the laws and regulations of the receiving State in this connection; they are therefore liable to give rise to misunderstanding. In these circumstances, it would appear preferable to word paragraph 4 as follows: "Claims (other than

contractual claims) arising out of acts done by members of a force or civilian component in the performance of their official duties in the territory of the receiving State, shall be settled by the receiving State in accordance with the following provisions: . . .” The rest of the paragraph remains unchanged.

8. In order to avoid the difficulties of interpretation which might be raised by the following passage: “arising out of acts done by members of a force or civilian component in the performance of their official duties in the territory of the receiving State,” the French Government would prefer to return to a wording similar to that contained in paragraph 1 of Article 8 of the Agreement signed in London on 21 December, 1949.

9. It would no doubt be preferable to state the procedure to be followed in the case of contractual claims.

ARTICLE X

10. The French Government are of the opinion that it would be advisable to reconsider whether it would not be better to follow the text of the Agreement of 21 December 1949 in listing the fiscal exemptions to be enjoyed by the persons covered by the Agreement, rather than to restrict the text, as in the present draft, to a statement of principle.

If, however, it was found unfeasible to make such a list, the French Delegation would wish to see included in the Summary Records a number of definitions which they would put forward in the course of discussion.

ARTICLE XI

11. In paragraph 4, the French Government would prefer to return to the original wording of this passage.

12. In paragraph 5, the French text differs from the English text in several respects.

MS-D(51) 20

Status of Forces Agreement—Amendments Proposed by the United States (9 April 1951) ¹

1. The following are the present views of the United States Government concerning the draft Agreement on the Status of NATO Armed Forces.

¹ Reference: D-D(51) 57 (28 February 1951). See also MS-R(51) 10-14 (19-24 April 1951). The paragraphs in the above document have been renumbered consecutively by the editor.

ARTICLE I

2. In order to make the Agreement applicable to all military personnel on duty status in the North Atlantic Treaty area, substitute in Article I(a), for "in connexion with the operation of the North Atlantic Treaty," the phrase "in the North Atlantic Treaty area."

3. In Article I it should be made clear that provisions of the Agreement apply to political subdivisions of the Contracting Parties as well as to the central government.

ARTICLE III

4. In Article III, add after "issued by an appropriate agency of the sending State" the phrase "or of NATO." This provision takes into consideration that SHAPE Headquarters and perhaps other international commands will be directing their members on various missions.

5. In Article III, paragraph 4, omit "such" in the last sentence.

6. In paragraph 5, insert after "civilian component" the words "or a dependent."

ARTICLE VII

7. In Article VII, paragraph 1(b), add "or dependents" after "members of a force or civilian component."

8. In paragraph 2, delete "other" before "acts," in order to avoid ambiguity.

9. In the second subparagraph of paragraph 2, insert "or dependents" after "civilian component."

10. Strike bracketed phrase in paragraph 3(a)(ii). Paragraph 6(b) should be amended to read: "The authorities, etc., shall notify one another of the disposition of all cases in which there are concurrent rights to exercise jurisdiction and in which another party has an interest."

ARTICLE VIII

11. In Article VIII, paragraph 1, omit the designations "(a)" and "(b)" in order to avoid confusion in the reference to "paragraph" in the present paragraph 1(b).

12. In the first sentence of paragraph 1, change "service ministries" to "armed services."

13. Strike the first subparagraph of paragraph 2, and substitute therefor the following:

(a) In the case of damage caused as stated in paragraph 1 to other property owned by a Contracting Party and

located in its territory, it is agreed, unless the interested parties stipulated otherwise, that the issue of liability shall be determined, and the amount of damage shall be assessed, by a sole arbitrator selected in accordance with paragraph 2(b) of this Article.

- (b) The Contracting Parties agree to establish within the framework of the North Atlantic Treaty Organisation a panel of jurists to be composed of designees of each Contracting Party. Claims presented pursuant to paragraph 2(a) of this Article shall be adjudicated by sole arbitrators drawn from such panel and selected by mutual agreement between the Governments of the interested parties. If the Governments are unable, within a reasonable time, to agree upon the selection, either may request the Chairman of the North Atlantic Council Deputies to make the selection from among members of the panel who are not designated by an interested party. The arbitrator shall perform his function at such time and places as may be necessary to adjudicate the claim.
- (c) The arbitrator shall adjudicate the claim in accordance with applicable laws, including international law.
- (d) Any decision taken by the arbitrator shall be binding and conclusive upon the Contracting Parties.
- (e) The amount of any compensation awarded shall be distributed in accordance with the provisions of paragraph 4(e) (i) and (ii) below.
- (f) The compensation of the arbitrator shall be fixed by agreement between the interested parties and shall, together with the necessary expenses incidental to the performance of his duties, be defrayed in equal proportions by the parties concerned.

14. Designate the present second subparagraph of paragraph 2 as "2(g)."

15. In paragraph 4(e) (ii), strike "half that of the sending State," and substitute: "the same as specified in paragraph (i) above."

16. In paragraph 4(f), the United States would prefer that members of a force or civilian component be immune from suit if a case can be adjudicated without joinder of the individual as a party.

17. Strike the second subparagraph of paragraph 4(f), and add to paragraph 4 the following provisions:

- (g) Each Contracting Party will assume, process, and pay all claims of its nationals, including vessels flying its flag, for

damages arising out of any maritime incident, including damage by vessels to land structures, caused by the public vessels of any other Contracting Party, wherever such claims for damages may arise.

The assumption of claims, arising out of any maritime incident, shall apply and be paramount in any situation where any vessel involved shall be engaged in any activity connected with or arising out of the operation of the North Atlantic Treaty, including situations where the other vessel or damaged property is not being utilised in connexion with the North Atlantic Treaty.

The representations of any Contracting Party involved, as to what vessels are its public vessels and whether they are engaged in any activity arising out of the North Atlantic Treaty, shall be conclusive.

The cost incurred in the assumption of claims involving maritime incidents shall be distributed between the Contracting Parties in the same manner as is specified for the distribution of assumed claims under paragraph 4 of this Article. The State of which the claimant is a national shall be considered the "receiving State."

The nationals of a "receiving State" shall, in any maritime incident where the receiving State is obligated by this Agreement to assume and process the claim arising out of the maritime incident, have no right of action in the courts of any other Contracting Party arising out of such incident.

18. Paragraph 7 should be omitted.

ARTICLE X

19. In paragraph 1, insert the word "legal" before "incidence."

ARTICLE XI

20. In Article XI, paragraph 2, insert after "service vehicles" the words, "under their own power."

21. Add as the second sentence of paragraph 2: "The temporary importation of such vehicles not under their own power shall be governed by paragraph 4, and the exportation thereof by paragraph 8, of this Article."

22. The United States feels that the permission for forces to enter any country includes permission to bring its equipment; and to obviate any inference that this is not necessarily true, the United States wishes to strike the words, "the equipment for that force and," in the first sentence of paragraph 4.

23. In paragraph 4, after the words, "for the exclusive use of that

force,” insert “or sale to members of that force,” and correspondingly insert after “where such use” the words, “or sale,” in the same sentence.

24. In paragraph 8, insert the number “2” before “4, 5, or 6” in both places where those numbers are used.

25. Add to Article XI the following two new paragraphs:

“13. The provisions of this Article shall apply to persons or things in transit as well as those located in the territory.

“14. Whenever the context permits in this Article and whenever such interpretation is consistent with the revenue laws of the receiving State, the word, ‘imported,’ shall include [goods] withdrawn from customs bonded warehouses or continuous customs custody.”

ARTICLES XV-XVII

26. In Article XV, insert between “agreement” and “such modifications” the word, “to.”

27. In Article XVI, insert before “North Atlantic Treaty Organisation” the words, “Council Deputies of the.”

28. In Article XVII, change the second sentence to read: “the request should be addressed to Chairman of the Council Deputies of the North Atlantic Treaty Organisation.”

ARTICLE XIX

29. In the last paragraph of Article XIX, substitute “Washington” for “London.” It is our view that, since the United States is to be a depository of the Convention, signature should be in Washington following approval.

OTHER POINTS

30. The United States views on one or two other points are not yet fully formulated but will be circulated, should present wording not be acceptable.

31. In Article X, add new paragraph reading as follows:

“4. For the purposes of this Article, the term, ‘members of a force,’ shall not include persons who are nationals of the receiving State.”

MS-D(51) 21

Status of Forces Agreement—Remarks and Amendments Submitted by the Netherlands (10 April 1951) ¹

¹ Reference: D-D(51) 57 (28 February 1951). See also MS-R(51) 10-14 (19-24 April 1951).

ARTICLE I(a)

1. In special cases there might be some doubt about the meaning of the words "in connexion with the operation of the North Atlantic Treaty." The Netherlands Delegation feels that in such cases the procedure mentioned in Article XVI should be applied.

ARTICLE VII

2. Amend by adding, after paragraph 5(c), the following:

The authorities of the receiving State shall give sympathetic consideration to a request from the authorities of the sending State for assistance in carrying out a sentence of imprisonment pronounced by the authorities of the sending State under the provisions of this Article within the territory of the receiving State.

3. Amend, by adding at the end of paragraph 6(a), the following sentence: "The handing over of the exhibits and of the objects seized may, however, be made subject to their return within the time specified by the authority delivering them."

ARTICLE VIII

4. In Article VIII, par. 1(a), read the second sentence ("Such waiver shall extend . . .") as follows:

As far as vessels are concerned, such waiver shall only apply to men-of-war used in connexion with the operation of the North Atlantic Treaty, wherever such damage shall occur, and whether it is caused by a member or employee of the armed forces of any other Contracting Party or by a man-of-war owned by any other Contracting Party and used in connexion with the operation of the North Atlantic Treaty.

Also, in paragraph 1(a) delete the last sentence ("Claims for maritime salvage . . .").

The Netherlands Delegation has the opinion that the waiver of claims under paragraph 1 of this Article should be confined to men-of-war. The following objections must be made against the extension to all vessels on bare boat charter:

- (a) These matters fall outside the scope of this Agreement dealing only with the status of members of forces and civilian components.
- (b) These matters are to be dealt with in an agreement to be drafted by the Ocean Shipping Planning Board of NATO.

ARTICLE IX

5. The Netherlands Delegation deems it necessary that provisions be made concerning the way in which a force is to be supplied with local currency without disturbing the monetary balance in the receiving State. An amendment concerning this matter will be tabled in due time.

ARTICLE X

6. In paragraph 1 of Article X, read the last part of the first sentence as follows: “. . . shall not be considered as periods of residence therein or as creating a change of *residence or* domicile, for the purposes of such taxation.”

In the second sentence of paragraph 1, replace the word “paid” by “granted.”

Delete paragraph 2 of Article X.

ARTICLE XV

7. In paragraph 1 of Article XV, replace the words “paragraphs 2, 4 and 5” by “paragraphs 2 and 4.” The Netherlands Delegation has the opinion that the expression “war damage” never includes tortious acts or omissions not relating to the performance of the official duties of a force.

MS-D(51) 22

Status of Forces Agreement—Comments of the United Kingdom Government (11 April 1951) ¹

1. The United Kingdom Government are prepared to accept in principle the draft Agreement on the Status of North Atlantic Treaty Organization Forces. They have, however, the following amendments to suggest.

ARTICLE III

2. In paragraph 5, after the words “civilian component,” add: “or a dependent of such member.”

¹ Reference: D-D(51) 57 (28 February 1951). See also MS-R(51) 10-14 (19-24 April 1951). The paragraph numbers in the above document have been added by the editor.

ARTICLE VII

3. Paragraph 1(a) should be amended on the lines suggested in the comments of the Danish Government.²

4. Paragraph 2 as it stands would confer on the sending State exclusive jurisdiction over an offense relating to its security, notwithstanding that that offense might be punishable by the law of the receiving State as well as by that of the sending State. We would therefore suggest that the paragraph should be redrafted as follows:

The military authorities of the sending State shall have the right to exercise exclusive jurisdiction over persons subject to the military law of that State with respect to offences, including offences relating to the security of the sending State, punishable by the law of that State, but not by the law of the receiving State.

The words "or security" should then be inserted after the words "against the property" in paragraph 3(a) (i).

5. It is proposed that paragraph 8(e) of Article VII should be redrafted as follows: "to have legal representation of his own choice for his defence, or to have free or assisted legal representation under the conditions prevailing for the time being in the receiving State."

6. In paragraph 9, it is suggested that the words "such units or formations" at the end of the paragraph should be replaced by the words "the force."

ARTICLE VIII

7. As at present drafted, paragraph 1(a) would operate unfairly. For instance, in the event of a collision between a vessel owned by one Contracting Party and used by its Service Ministries which was engaged on NATO duties, and a similar vessel of another Contracting Party engaged on non-NATO duties, the latter Government would be obliged to waive its claims for damage, whereas the former could claim in the ordinary way. In order to make the waiver provided for fully reciprocal, the following amendment is proposed:

Each Contracting Party waives all its claims against any other Contracting Party for damage to any property owned by it and used by its Service Ministries (land, sea or air) caused either:

- (i) by a member or an employee of the armed forces of any Contracting Party, provided that such damage was caused by such

² See MS-D(51) 18, par. 1 (5 April 1951).

- member or employee in the execution of his duties in connexion with the operation of the North Atlantic Treaty; or
- (ii) by a vehicle, vessel or aircraft owned by a Contracting Party and used by its Service Ministries, provided either that the vehicle, vessel or aircraft causing the damage was being used in connexion with the operation of the North Atlantic Treaty or that the damage was caused to property being so used.

Claims for maritime salvage by one Contracting Party against any other Contracting Party shall be waived, provided that the vessel or cargo salvaged was owned by a Contracting Party and being used by its Service Ministries in connexion with the operation of the North Atlantic Treaty.

8. Since the definition contained in paragraph 1(b) applies to paragraph 2 as well as to paragraph 1, this subparagraph 1(b) should become paragraph 3 and be amended to read: "For the purposes of paragraphs 1 and 2 of this Article, the expression . . ." Paragraphs 3 onwards would then be renumbered accordingly.

9. It is suggested that the second sentence of paragraph 4(f) should become subparagraph (g) with the addition, after the words "discharge of cargo," of the words "other than claims for death or personal injury to which paragraph 4 above does not apply."

10. In paragraph 7, after the words "civilian component" change the sentence to read: "in respect of the civil jurisdiction of the courts of the receiving State, except as is provided by the preceding paragraphs of this Article."

ARTICLE IX

11. In paragraph 5, before the word "members" substitute "its" for "their."

ARTICLE XI

12. The provisions in paragraph 8(b), for disposal of goods imported free of duty, should presumably apply also to service vehicles under paragraph 2.

13. The definition of "duty" in paragraph 12 should apply also to paragraph 11, and it is suggested that paragraph 12 should be reworded so as to begin: "For the purposes of this Article. . ."

ARTICLE XVIII

14. As it is not known in what circumstances other States might accede to the North Atlantic Treaty, it is suggested that accession to the present Agreement should be made subject to conditions laid down by the Contracting Parties in the light of circumstances at the

time. This could be done by amending the first sentence of paragraph 3 to read :

After it has come into force, the present Agreement shall, subject to the approval of the Contracting Parties and to such conditions as they may decide, be open to accession on behalf of any State which accedes to the North Atlantic Treaty.

ARTICLE XX (new)

15. The United Kingdom Government cannot commit Colonial Governments to this Agreement without their consent. As consultation with these Governments may take some time, the addition of a "Colonial Application" Article is proposed as follows:

1. Any State may, at the time of the deposit of its instrument of ratification or accession or at any time thereafter, declare by notification given to the Government of the United States of America that the present Agreement shall extend to all or any of the territories for whose international relations it is responsible, and the Agreement shall extend to the territory or territories named therein thirty days after the receipt by the Government of the United States of America of the notification, or when it has come into force under Article XVIII, whichever is the later.

"2. A State which has made a declaration under paragraph 1 of this Article extending the present Agreement to any territory for whose international relations it is responsible, may denounce the Agreement separately in respect of that territory in accordance with the provisions of Article XIX."

16. In addition to this Article, the following definition of "territory" should be included in Article I: "Territory in relation to a State means the metropolitan territory of that State and any of its territories to which the Agreement has been extended under Article XX."

MS-D(51) 23

Status of Forces Agreement—Note by the French Representative on Application of the Agreement to Troops on the Staff of SHAPE (16 April 1951)

At its meeting of 27 February, 1951 (MS-R(51) 6, par. 18), the Working Group requested the French Representative to obtain infor-

mation on a number of problems which were connected with the draft Agreement on the Status of Forces under consideration and concerned SHAPE.

1. The first question related to the application to SHAPE of the provisions of the Agreement [on the Status of Forces] in course of preparation.

The French Delegation is able to state on this point that the French Government and SHAPE agree to apply in principle the Agreement on the Status to be established for the armed forces of the North Atlantic countries. Nevertheless, the automatic application to the case of SHAPE of this Agreement on the Status would encounter a number of difficulties due to the fact that SHAPE is an integrated Headquarters forming a separate entity, the members of which are not responsible to the same national authority. In these circumstances, it will be necessary, without altering in any way the general sense of the Agreement on the Status [of Forces] to lay down the special provisions called for in the case of SHAPE by means of a special agreement between the French Government and the Supreme Commander. It is pointed out, as an example, that the provisions appearing in Article VII of the draft Agreement give rise to difficulties in the case of SHAPE, which are often particularly difficult to solve.

These questions are at present under consideration in Paris. If such is the wish of the members of the Working Group, the French Delegation is prepared to give them further information on the progress of those talks before the close of the Working Group's own discussions.

2. At the request of the Canadian Representative in particular, the Working Group expressed the desire to know whether it was SHAPE's intention to have internal legislative measures worked out with a view to placing at the disposal of an integrated command forces or individuals belonging to the various national armies.

For the time being, as regards the arrangements whereby such forces or individuals are placed at the disposal of the Supreme Commander by the countries concerned, the existing situation seems to be acceptable. The question whether the position should be examined in the way suggested above will be considered when the organization of SHAPE reaches a stage which makes this possible.

3. The Working Group has been asked whether the possibility of setting up special inter-allied military courts was under consideration. The reply is in the negative.

MS-D(51) 24

Agreement on the Status of NATO, National Representatives and International Staff—Amended Version of Articles 1-9 of the Draft (16 April 1951) ¹

Draft Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff

The States signatory to the present Agreement,

Considering that, for the exercise of their functions and the fulfilment of their purposes, it is necessary that the North Atlantic Treaty Organisation, its officials and the representatives of Member States attending meetings thereof should have the status set out hereunder, Have agreed as follows:

PART I.—GENERAL

ARTICLE 1

In the present Agreement,

- (a) “the Organisation” means the North Atlantic Treaty Organisation, consisting of the Council established under Article 9 of the North Atlantic Treaty and its subsidiary bodies;
- (b) “the Council” means the Council established under Article 9 of the North Atlantic Treaty or any person or body authorised to act on its behalf;
- (c) “subsidiary bodies” means the Council Deputies and any other organ, committee or service which, having been established by the Council, may from time to time be in existence;
- (d) for the purposes of Part V, “representatives” means representatives and their alternates.

ARTICLE 2

The Organisation shall co-operate at all times with the competent authorities of Member States to facilitate the proper administration of justice, secure the observance of police regulations, and prevent the occurrence of any abuse in connexion with the privileges and immunities set out in the present Agreement.

¹ This draft incorporates the amendments to D-D(51) 58 (1 March 1951) which were proposed at the meeting reported in MS-R(51) 7 (16 April 1951). The present redraft was not the basis for any discussions by the Working Group, having been superseded by MS-D(51) 25 (20 April 1951).

PART II.—PERSONALITY AND CAPACITY

ARTICLE 3

The Organisation shall possess juridical personality; it shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property, and to institute legal proceedings.

The Council shall act on behalf of the Organisation in these matters.

PART III.—PROPERTY, FUNDS AND ASSETS

ARTICLE 4

The Organisation, its property and assets, wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process, except in so far as in any particular case the Council, acting on behalf of the Organisation, may expressly authorise the waiver of this immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution or detention of property.

ARTICLE 5

The premises of the Organisation shall be inviolable. Its property and assets, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, appropriation or any other form of interference.

ARTICLE 6

The archives of the Organisation and in general all documents belonging to it or held by it shall be inviolable, wherever located.

ARTICLE 7

Without being restricted by financial controls, regulations or moratoria of any kind,

- (a) the Organisation may hold currency of any kind and operate accounts in any currency;
- (b) the Organisation may freely transfer its funds from one country to another or within any country and convert any currency held by it into any other currency.

In exercising its rights under sub-paragraphs (a) and (b) above, the Organisation shall pay due regard to any representations made by any Member State and shall give effect to such representations in so far as it is practicable to do so.

ARTICLE 8

The Organisation, its assets, income and other property shall be exempt:

- (a) from all direct taxes; the Organisation will not, however, claim exemption from rates, taxes or dues which are no more than charges for public utility services;
- (b) from all customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Organisation for its official use; articles imported under such exemption shall not be sold in the country into which they are imported, except under conditions approved by the Government of that country;
- (c) from all customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

ARTICLE 9

While the Organisation will not as a general rule claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the Organisation is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Member States will whenever possible make the appropriate administrative arrangements for the remission or return of the amount of duty or tax.

MS-D(51) 25

Agreement on the Status of NATO, National Representatives and International Staff—Revised Version of Draft (20 April 1951) ¹

Draft Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff

The States signatory to the present Agreement,

Considering that, for the exercise of their functions and the fulfilment of their purposes, it is necessary that the North Atlantic Treaty Organisation, its officials and the representatives of Member States attending meetings thereof should have the status set out hereunder,

Have agreed as follows:

¹ Reference: D-D(51) 58 (1 March 1951); MS-D(51) 24 (16 April 1951). The present revision was prepared by the Chairman of the Working Group in the light of the discussions recorded in MS-R(51) 7-9 (16-17 April 1951). See also MS-R(51) 17 (30 April 1951) for discussion of the present text.

PART I.—GENERAL

ARTICLE 1

In the present Agreement,

- (a) “the Organisation” means the North Atlantic Treaty Organisation, consisting of the Council established by Article 9 of the North Atlantic Treaty and its subsidiary bodies;
- (b) “subsidiary bodies” means the Council Deputies and any other organ, committee or service which, having been established by the Council, may from time to time be in existence.

ARTICLE 2²

Where any duty is imposed or any right or power conferred on the Council by the present Agreement, the duty may be performed, and the right or power may be exercised by the Council or by any other person or body authorised to act on its behalf.

ARTICLE 3

The present Agreement shall not apply to the Standing Group established to serve the Military Committee of the Organisation, nor to the Supreme Headquarters Allied Powers in Europe, nor to any force or civilian component to which the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces applies.

ARTICLE 4

The Organisation shall co-operate at all times with the competent authorities of Member States to facilitate the proper administration of justice, secure the observance of police regulations, and prevent the occurrence of any abuse in connexion with the immunities and privileges set out in the present Agreement. If any State party to this Agreement considers that there has been an abuse of any immunity or privilege conferred by the Agreement, consultations shall be held between that State and the Organisation to determine whether any such abuse has occurred, and, if so, to attempt to ensure that no repetition occurs.

PART II.—PERSONALITY AND CAPACITY

ARTICLE 5

1. The Organisation shall possess juridical personality; it shall have the capacity to conclude contracts, to acquire and dispose of

² This new Article has been inserted because the definition of “the Council” previously agreed was not appropriate in Part V [footnote in original text].

movable and immovable property, and to institute legal proceedings.

2. The Council shall act on behalf of the Organisation in these matters.

PART III.—PROPERTY, FUNDS AND ASSETS

ARTICLE 6

The Organisation, its property and assets, wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process, except in so far as in any particular case the Council, acting on behalf of the Organisation, may expressly authorise the waiver of this immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution or detention of property.

ARTICLE 7

The premises of the Organisation shall be inviolable. Its property and assets, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, appropriation or any other form of interference.

ARTICLE 8

The archives of the Organisation and in general all documents belonging to it or held by it shall be inviolable, wherever located.

ARTICLE 9

1. Without being restricted by financial controls, regulations or moratoria of any kind,

(a) the Organisation may hold currency of any kind and operate accounts in any currency;

(b) the Organisation may freely transfer its funds from one country to another or within any country and convert any currency held by it into any other currency.

2. In exercising its rights under paragraph 1 above, the Organisation shall pay due regard to any representations made by any Member State and shall give effect to such representations in so far as it is practicable to do so.

ARTICLE 10

The Organisation, its assets, income and other property shall be exempt:

(a) from all direct taxes; the Organisation will not, however, claim exemption from rates, taxes or dues which are no more than charges for public utility services;

- (b) from all customs duties and prohibitions and restrictions on imports and exports in respect of articles required by the Organisation for its official use; articles imported under such exemption shall not be sold in the country into which they are imported, except under conditions approved by the Government of that country.
- (c) from all customs duties and prohibitions and restrictions on imports and exports in respect of its publications.

ARTICLE 11

While the Organisation will not as a general rule claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the Organisation is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Member States will whenever possible make the appropriate administrative arrangements for the remission or return of the amount of duty or tax.

PART IV.—COMMUNICATIONS

ARTICLE 12

The Organisation shall enjoy in the territory of each Member State, for its official communications, treatment at least as favourable as that accorded by the Government of that State to the diplomatic missions of any other Government in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephones, and other communications and press rates for information to the press and radio, except in so far as such treatment would be contrary to the terms of the International Telecommunications Convention.

ARTICLE 13

1. No censorship shall be applied to the official correspondence and other official communications of the Organisation.

2. The Organisation shall have the right to use codes and to despatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

3. Nothing in this Article shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a Member State and the Council.

PART V.—REPRESENTATIVES OF MEMBER STATES³

ARTICLE 14

[Every person designated by a Member State as its principal permanent representative to the Organisation in the territory of another Member State and such resident members of his official staff as may be agreed upon between the Governments of these States shall enjoy the immunities and privileges normally accorded to diplomatic representatives and their retinue of comparable rank.

ARTICLE 15

1. Any representative of a Member State to the Council or any of its subsidiary bodies who is not covered by Article 14 shall, while present in the territory of another Member State for the discharge of his duties, enjoy the following privileges and immunities:

- (a) the same immunity from personal arrest or detention and from seizure of his personal baggage as is accorded to diplomatic representatives of comparable rank;
- (b) in respect of words spoken or written and of acts done by him in his official capacity, immunity from legal process;
- (c) inviolability for all papers and documents;
- (d) the right to use codes and to receive papers or correspondence by courier or in sealed bags;
- (e) exemption in respect of himself and his spouse from immigration restrictions, alien registration or national service obligations in the State which he is visiting or through which he is passing in the exercise of his functions;
- (f) the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic representatives of comparable rank;
- (g) the same immunities and facilities in respect of his personal baggage as are accorded to diplomatic representatives of comparable rank.

2. Where the incidence of any form of taxation depends upon residence, a period during which a representative to whom this Article applies is present in the territory of another Member State for the discharge of his duties shall not be considered as a period of residence. In particular, he shall be exempt from taxation on his official salary and emoluments during such periods of duty.

3. In order to secure for the representatives of Member States,

³ The complete text of Articles 14–18 is enclosed in one set of square brackets in the original text.

at meetings of the Council or any of its subsidiary bodies, complete freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.

4. In this Article, "representatives" shall be deemed to include all representatives, alternates, and technical experts of delegations.

ARTICLE 16

Official secretarial staff accompanying a representative of a Member State who are not covered by Articles 14 and 15 shall, while present in the territory of another Member State for the discharge of their duties, be accorded the privileges and immunities set out in paragraph 1(b), (c), (e) and (f), and paragraph 2 of Article 15.

ARTICLE 17

Privileges and immunities are accorded to the representatives of Member States and their staffs, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connexion with the North Atlantic Treaty. Consequently, a Member State not only has the right, but is under a duty to waive the immunity of its representatives and members of their staffs in any case where, in its opinion, the immunity would impede the course of justice and where it can be waived without prejudice to the purposes for which the immunity is accorded.

ARTICLE 18

The provisions of Articles 14 to 16 above are not applicable in relation to the authorities of a State of which the person is a national or of which he is or has been a representative or on the staff of a representative].

PART VI.—OFFICIALS OF THE COUNCIL

ARTICLE 19

The categories of officials to which this Part of the Agreement applies shall be agreed between the Chairman of the Council Deputies and the Governments of Member States. The Chairman of the Council Deputies shall communicate to Member States the names of the officials included in these categories.

ARTICLE 20

Officials of the Organisation to whom this Part of the Agreement applies shall:

- (a) be immune from legal process in respect of words spoken or written and of acts done by them in their official capacity and within the limits of their authority;
- (b) be exempt from taxation on the salaries and emoluments paid to them in their capacity as such officials and from social security assessments;
- (c) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and aliens' registration;
- (d) be accorded the same privileges in respect of currency or exchange restrictions as are accorded to officials of comparable rank of diplomatic missions;
- (e) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as officials of comparable rank of diplomatic missions;
- (f) have the right to import free of duty their furniture and effects at the time of first arrival to take up their post in the country in question and, on the termination of their functions in that country, to remove such furniture and effects free of duty to their future country of residence.

ARTICLE 21

In addition to the immunities and privileges specified in Article 20, the Chief of the International Staff of the Organisation, the Co-ordinator of North Atlantic Defence Production, and any other permanent official of the same rank agreed between the Chairman of the Council Deputies and the Governments of Member States, shall be accorded in respect of himself, his spouse and children under the age of 21 the privileges and immunities normally accorded to diplomatic representatives of comparable rank.

ARTICLE 22

Privileges and immunities are granted to officials in the interests of the Organisation and not for the personal benefit of the individuals themselves. The Chairman of the Council Deputies shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of

justice and may be waived without prejudice to the interests of the Organisation.

PART VII.—EXPERTS ON MISSIONS FOR THE ORGANISATION

ARTICLE 23

Experts (other than officials coming within the scope of Part VI) employed on missions on behalf of the Organisation shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions during the period of their service, including the time spent on journeys in connexion with such service:

- (a) immunity from personal arrest or detention and from seizure of their personal baggage;
- (b) in respect of words spoken or written or acts done by them in the performance of their official functions for the Organisation, immunity from legal process;
- (c) the same facilities in respect of currency or exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign Governments on temporary official missions;
- (d) inviolability for all papers and documents relating to the work on which they are engaged for the Organisation.

ARTICLE 24

Privileges and immunities are granted to experts in the interests of the Organisation and not for the personal benefit of the individuals concerned. The Chairman of the Council Deputies shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the Organisation.

PART VIII.—SETTLEMENT OF DISPUTES

ARTICLE 25

The Council shall make provision for appropriate modes of settlement of:

- (a) disputes arising out of contracts or other disputes of a private character to which the Organisation is a party;
- (b) disputes involving any official of the Organisation to whom Part VI of this Agreement applies, or any expert to whom Part VII applies, who by reason of his official position enjoys

immunity, if immunity has not been waived in accordance with the provisions of Articles 22 or 24.

PART IX.—SUPPLEMENTARY AGREEMENTS

ARTICLE 26

The Council may conclude with any Member State or States supplementary agreements modifying the provisions of the present Agreement, so far as that State or those States are concerned. The Council shall inform all Member States of any agreements concluded under this Article.

PART X.—FINAL PROVISIONS

ARTICLE 27

1. The present Agreement shall remain open for signature by Member States of the Organisation and shall be subject to ratification. Instruments of ratification shall be deposited with the Government of the United States of America, which will notify all signatory States of each such deposit.

2. As soon as six signatory States have deposited their instruments of ratification, the present Agreement shall come into force in respect of those States. It shall come into force in respect of each other signatory State on the date of the deposit of its instrument of ratification. Nevertheless, pending the entry into force of the Agreement, in accordance with the provisions of the preceding paragraph, the signatories agree, in order to avoid any delay in the efficient working of the Organisation, to apply it provisionally from the date of signature, so far as it is possible to do so under their respective constitutional systems.

In witness whereof the undersigned plenipotentiaries, being duly authorised to that effect, have signed the present Agreement.

Done at (place) this ----- day of (month, year) in French and in English, both texts being equally authoritative, in a single copy which shall be deposited in the archives of the Government of the United States of America which will transmit a certified copy to each of the signatories.

MS-D(51) 27

Status of Forces Agreement—Article IX and Requisitions on Allied Territory in Wartime (23 April 1951) ¹

¹ Reference: D-D(51) 57 (28 February 1951).

*Letter from Western European Planning Group to the Secretary,
North Atlantic Council Deputies, 11 April 1951*

Dear Mr. Charlton,

Thank you for your letter of 6th April and for sending document D-D(51) 57 concerning the Status of the NATO Armed Forces.

Paragraphs 1-7 of Article IX are relevant to the points which this Organization would like to be studied, but cover them only partly and in very broad terms. I think a more complete and detailed study would be necessary.

I send you herewith a draft report which was prepared in this Organization when the problem was being studied on a Brussels Treaty basis. The study was discontinued and the document I am sending to you has never been approved. It should not, therefore, be considered as an official document. I thought it might help to show what points this Organization had in mind.

In case the Working Party in charge of studying the "Status of Armed Forces" wants some more information, I am sure this Organization would be quite prepared to send a member of its Administrative Planning Division to one of the meetings of the Working Party.

Yours sincerely,

/s/ J. Fauchon de Villeplée.

WESTERN UNION DEFENCE ORGANIZATION
MILITARY COMMITTEE

REQUISITIONS ON ALLIED TERRITORY IN WAR TIME

(Draft Report by the Administrative Planning Division)

1. The Military Committee will remember that the programme of work of the Administrative Planning Division, approved by the Principal Administrative Planning Committee and by the Military Committee includes the problem of requisitions, in war time, in a country of Western Union, and for the benefit of Allied Forces.

2. The problem with which we are faced is that of finding the easiest and most practical means of permitting the forces of an Allied Power, operating outside its own territory, or an inter-allied organization, to obtain locally the necessary means to live, move and fight—whether lodgings, buildings, work-shops, means of transport, port facilities, local resources, labour, etc.

3. This problem has several aspects :

- (a) The legal aspect ;
- (b) The aspect of procedure ;
- (c) The financial aspect.

The Legal Aspect

4. The legal aspect comprises essentially the limits to which the right to requisition may be applied in accordance with the laws and regulations in force in each country, or in accordance with international agreements.

5. Previous documents have already defined a number of principles relating to the placing of facilities by one country at the disposal of the forces of an allied country, and to the method of carrying out the necessary requisitions. As regards the latter, it has been recognized that any requisition would be made through the medium of some authority or liaison officer of the supplying country.

6. Under these conditions, we consider that the legal aspect of the requisition problem is essentially a national problem which in itself does not justify a special study.

7. However, it should be noted that, in accordance with the terms of paragraph 12(d) and 16(c) of M.D.(50) 13, the Operational Command in the Combat Zone has in certain circumstances the right to call upon local resources, with certain exceptions to be defined. In our opinion the legal aspect of this special problem could be included in the general study of the question of the status of inter-allied organizations and Armed Forces of one country stationed on duty in wartime in the territory of another Western European Power.

8. We are of the opinion that the Brussels Treaty Permanent Commission might be requested to study this question in a similar way to that of the Status of members of the Armed Forces of the Brussels Treaty Powers in peace time. This conforms with the recommendations at paragraph 18(b) of M.D.(50) 13, and the attention of the Permanent Commission should be drawn to the special problems raised at paragraph 7 above.

Procedure

9. We consider it important that the Forces of an Allied Power should know in advance the procedure to be followed for obtaining, by local requisition, within the frame-work of international agreements and regulations in force, the necessary means to live, move and fight on the territory of another Power of the Western Union.

10. In addition, as allied units may be called upon to move fre-

quently from one country of Western Union to another, it is of great importance that there should be common procedure and not several different ones. This procedure should cover, among others, the following points:

- (a) Adoption of trilingual forms common to the Five Powers for the various types of requisitions.
- (b) Definition of the respective responsibilities of the National and Allied Authorities in questions such as placing and fulfilling of demands, survey of condition, inventories, assessments and claims, etc.
- (c) Provision for the accounting for requisitions on behalf of an allied unit or inter-allied organisation.

11. We consider that this problem should be studied by a "Working Party" composed of specialists from the different countries of Western Union.

Financial Aspect

12. The financial aspect of the problem of inter-allied requisitions comes within the scope of general agreements governing the total financing of war.

13. To our knowledge, this problem has not yet been tackled and is definitely outside the scope of our organisation.

14. We consider that the practical side of the problem of inter-allied requisitions can be dealt with before the means of financing have been decided upon.

15. We have drafted the terms of reference of the Working Party referred to at paragraph 11 above. These are in the Annex.

Recommendations

16. We recommend that:

- (a) The Military Committee approve this report with the attached terms of reference and instruct the Administrative Planning Division to supervise the activities of the Working Party.
- (b) The Heads of Delegations request their National Authorities to appoint the specialists on this Working Party.
- (c) The Military Committee invite the Joint American Military Advisory Group to take part in these studies, since the United States forces may be directly concerned in the solution of these problems.
- (d) The Military Committee invite the Permanent Commission to define the legal aspects of the right of requisitioning for the Allied Forces, when they study the question of the status

in war time of inter-allied organizations and of the Armed Forces of one country operating on the territory of another Western European Power.

Annex (Terms of Reference)

1. A Working Party composed of specialists in matters of requisition, representing the Five Powers, responsible to the Military Committee, will function under the direction of the Administrative Planning Division.

2. The task of this Working Party is to suggest a practical procedure, common to the Five Powers, whereby, within the framework of international agreements, the Allied Forces of one Power operating on the territory of another Power may obtain locally the necessary means to live, move and fight, whether it be lodgings, buildings, work-shops, means of transport, port facilities, local resources, labour, etc.

3. The task of the Working Party will be governed by the principles which have already been defined, and in particular by F.C.(49) 21, relating to Logistic Principles, and by M.D.(50) 13, relating to the division of responsibilities in war.

4. The Working Party is not required to define the legal aspect of the problem, nor to study the means of financing inter-allied requisitions. However it is recommended that the "Working Party" first check whether existing national legislation authorizes requisitioning for the benefit of National or Allied Forces. Certain assumptions may, if necessary, be made regarding the method of financing. If so made, the assumptions should be clearly stated.

5. The study of the procedure to be applied will cover, among others, the following points:

- (a) Deciding on trilingual forms, common to the Five Powers, for the various types of requisitions.
- (b) Defining the respective responsibilities of the National and Allied Authorities in matters of survey of condition, inventories, assessments and claims, etc.
- (c) Providing for the accounting for requisitions on behalf of an allied unit or inter-allied organization.

* * * * *

MS-D(51) 28

Status of Forces Agreement—Revised Draft (27 April 1951) ¹

¹ Reference: D-D(51) 57 (28 February 1951) for previous text; MS-R(51) 18 (1 May 1951) for discussion of present version.

*Agreement Between the Parties to the North Atlantic Treaty
Regarding the Status of Their Forces*

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949,

Considering that the forces of one Party may be sent, by arrangement, to serve in the territory of another Party;

Desiring to define the status of such forces while in the territory of another Party;

Bearing in mind, however, that the decision to send them and the conditions under which they will be sent, in so far as such conditions are not laid down by the present Agreement, will continue to be the subject of separate arrangements between the Parties concerned;

Have agreed as follows:

ARTICLE I

In this Agreement the expression—

- (a) “force” means the personnel belonging to the land, sea or air armed services of one Contracting Party when in the territory of another Contracting Party in the North Atlantic Treaty area in connexion with their official duties, provided that the two Contracting Parties concerned may agree that certain units or formations shall not be regarded as constituting or included in a “force” for the purposes of the present Agreement;
- (b) “civilian component” means the civilian personnel accompanying a force of a Contracting Party who are in the employ of an armed service of that Contracting Party, and who are not stateless persons, nor nationals of any State which is not a Party to the North Atlantic Treaty, nor nationals of, nor ordinarily resident in, the State in which the force is located;
- (c) “dependent” means the spouse of a member of a force or of a civilian component, or a child of such member depending on him or her for support;
- (d) “sending State” means the Contracting Party to which the force belongs;
- (e) “receiving State” means the Contracting Party in the territory of which the force or civilian component is located, whether it be stationed there or passing in transit;
- (f) “military authorities of the sending State” means those authorities of a sending State who are empowered by its law to

enforce the military law of that State with respect to members of its forces or civilian components;

- (g) “North Atlantic Council” means the Council established by Article 9 of the North Atlantic Treaty or any of its subsidiary bodies authorised to act on its behalf.

ARTICLE II

It is the duty of a force and its civilian component and the members thereof as well as their dependents to respect the law of the receiving State, and to abstain from any activity inconsistent with the spirit of the present Agreement, and, in particular, from any political activity in the receiving State. It is also the duty of the sending State to take necessary measures to that end.

ARTICLE III

1. On the conditions specified in paragraph 2 of this Article and subject to compliance with the formalities established by the receiving State relating to entry and departure of a force or the members thereof, such members shall be exempt from passport and visa regulations and immigration inspection on entering or leaving the territory of a receiving State. They shall also be exempt from the regulations of the receiving State on the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territories of the receiving State.

2. The following documents only will be required in respect of members of a force. They must be presented on demand:

- (a) personal identity card issued by the sending State, showing names, date of birth, rank and number (if any), service, and photograph;
- (b) individual or collective movement order, in the language of the sending State and in the English and French languages, issued by an appropriate authority of the sending State or of the North Atlantic Treaty Organisation and certifying to the status of the individual or group as a member or members of a force and to the movement ordered. The receiving State may require a movement order to be countersigned by its appropriate representative.

3. Members of a civilian component and dependents shall be so described in their passports.

4. If a member of a force or of a civilian component leaves the employ of the sending State and is not repatriated, the authorities of the sending State shall immediately inform the authorities of the

receiving State, giving such particulars as may be required. The authorities of the sending State shall similarly inform the authorities of the receiving State of any member who has absented himself for more than 21 days.

5. If the receiving State has requested the removal from its territory of a member of a force or civilian component or has made an expulsion order against an ex-member of a force or of a civilian component or against a dependent of a member or ex-member, the authorities of the sending State shall be responsible for receiving the person concerned within their own territory or otherwise disposing of him outside the receiving State. This paragraph shall not apply to nationals of the receiving State.

ARTICLE IV

The receiving State shall either

- (a) accept as valid, without a driving test or fee, the driving permit or licence or military driving permit issued by the sending State or a sub-division thereof to a member of a force or of a civilian component; or
- (b) issue its own driving permit or licence to any member of a force or civilian component who holds a driving permit or licence or military driving permit issued by the sending State or a sub-division thereof, provided that no driving test shall be required.

ARTICLE V

1. Members of a force shall normally wear uniform. Subject to any arrangement to the contrary between the authorities of the sending and receiving States, the wearing of civilian dress shall be on the same conditions as for members of the forces of the receiving State. Regularly constituted units or formations of a force shall be in uniform when crossing a frontier.

2. Service vehicles of a force or civilian component shall carry, in addition to their registration number, a distinctive nationality mark.

ARTICLE VI

Members of a force may possess and carry arms, on condition that they are authorised to do so by their orders. The authorities of the sending State shall give sympathetic consideration to requests from the receiving State concerning this matter.

ARTICLE VII

1. Subject to the provisions of this Article,

- (a) the military authorities of the sending State shall have the right to exercise within the receiving State all criminal and disciplinary jurisdiction conferred on them by the law of the sending State over all persons subject to the military law of that State;
- (b) the authorities of the receiving State shall have jurisdiction over the members of a force or civilian component and their dependents with respect to offences committed within the territory of the receiving State and punishable by the law of that State.

2. (a) The military authorities of the sending State shall have the right to exercise exclusive jurisdiction over persons subject to the military law of that State with respect to offences, including offences relating to its security, punishable by the law of the sending State, but not by the law of the receiving State.

- (b) The authorities of the receiving State shall have the right to exercise exclusive jurisdiction over members of a force or civilian component and their dependents with respect to offences, including offences relating to the security of that State, punishable by its law but not by the law of the sending State.

(c) For the purposes of this paragraph and of paragraph 3 of this Article a security offence against a State shall include

- (i) treason against that State;
- (ii) sabotage, espionage or violation of any law relating to official secrets of that State, or secrets relating to the national defence of that State.

3. In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:

- (a) The military authorities of the sending State shall have the primary right to exercise jurisdiction over a member of a force or of a civilian component in relation to

- (i) offences solely against the property or security of that State, or offences solely against the person or property of another member of the force or civilian component of that State or of a dependent;
- (ii) offences arising out of any act or omission done in the performance of official duty.

- (b) In the case of any other offence the authorities of the re-

ceiving State shall have the primary right to exercise jurisdiction.

- (c) If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other State considers such waiver to be of particular importance.

4. The foregoing provisions of this Article shall not imply any right for the military authorities of the sending State to exercise jurisdiction over persons who are nationals of or ordinarily resident in the receiving State, unless they are members of the forces of the sending State.

5. A death sentence shall not be carried out in the receiving State by the authorities of the sending State if the legislation of the receiving State does not provide for such punishment in a similar case.

- 6. (a) The authorities of the receiving and sending States shall assist each other in the arrest of members of a force or civilian component or their dependents in the territory of the receiving State and in handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.
- (b) The authorities of the receiving State shall notify promptly the military authorities of the sending State of the arrest of any member of a force or civilian component or a dependent.
- (c) The custody of an accused member of a force or civilian component over whom the receiving State is to exercise jurisdiction shall, if he is in the hands of the sending State, remain with that State until he is charged by the receiving State.
- (d) The authorities of the receiving State shall give sympathetic consideration to a request from the authorities of the sending State for assistance in carrying out a sentence of imprisonment pronounced by the authorities of the sending State under the provisions of this Article within the territory of the receiving State.
- 7. (a) The authorities of the receiving and sending States shall assist each other in the carrying out of all necessary investigations into offences, and in the collection and production of evidence, including the seizure and, in proper cases,

the handing over of objects connected with an offence. The handing over of such objects may, however, be made subject to their return within the time specified by the authority delivering them.

- (b) The authorities of the Contracting Parties shall notify one another of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.

8. Where an accused has been tried by the authorities of one Contracting Party and has been acquitted, or has been convicted and is serving, or has served, his sentence or has been pardoned, he may not be tried again for the same offence within the same territory by the authorities of another Contracting Party. However, nothing in this paragraph shall prevent the authorities of a sending State from trying a member of its force for any violation of rules of discipline involved in the offence, but any finding favourable to the accused in the first trial shall be *res judicata* and any sentence pronounced in the first trial, whether or not executed, shall be taken into account.

9. Whenever a member of a force or civilian component is prosecuted under the jurisdiction of a receiving State he shall be entitled:

- (a) to a prompt and speedy trial;
- (b) to be informed in advance of trial of the specific charge or charges made against him;
- (c) to be confronted with the witnesses against him;
- (d) to have compulsory process for obtaining witnesses in his favour, if within the jurisdiction of the receiving State;
- (e) to have legal representation of his own choice for his defence or to have free or assisted legal representation under the conditions prevailing for the time being in the receiving State;
- (f) if he considers it necessary, to have the services of a competent interpreter; and
- (g) to communicate with a representative of the Government of the sending State and, when the rules of the court permit, to have such a representative present at his trial.

10. Regularly constituted military units or formations of a force shall have the right to police any camps, establishments or other premises which they occupy as the result of an agreement with the receiving State. The military police of the force may take all appropriate measures to ensure the maintenance of order and security on such premises.

Outside these premises, such military police shall be employed only subject to arrangements with the authorities of the receiving State and in liaison with those authorities, and in so far as such employ-

ment is necessary to maintain discipline and order among the members of the force.

11. Each Contracting Party shall seek such legislation as it deems necessary to ensure the adequate security and protection within its territory of installations, equipment, property, records and official information of other Contracting Parties, and the punishment of persons who may contravene such laws enacted for that purpose.

ARTICLE VIII²

1. Each Contracting Party waives all its claims against any other Contracting Party for damage to any property owned by it and used by its armed services (land, sea or air) if such damage

- (i) was caused by a member or an employee of the armed services of any Contracting Party, provided that such damage was caused by such member or employee in the execution of his duties in connexion with the operation of the North Atlantic Treaty; or
- (ii) arose from the use of any vehicle, vessel or aircraft owned by a Contracting Party and used by its armed services, provided either that the vehicle, vessel or aircraft causing the damage was being used in connexion with the operation of the North Atlantic Treaty or that the damage was caused to property being so used.

Claims for maritime salvage by one Contracting Party against any other Contracting Party shall be waived, provided that the vessel or cargo salvaged was owned by a Contracting Party and being used by its armed services in connexion with the operation of the North Atlantic Treaty.

- 2. (a) In the case of damage caused or arising as stated in paragraph 1 to other property owned by a Contracting Party and located in its territory, the issue of the liability of any other Contracting Party shall be determined and the amount of damage shall be assessed, unless the Contracting Parties concerned agree otherwise, by a sole arbitrator selected in accordance with sub-paragraph (b) of this paragraph. The arbitrator shall also decide any counter-claims arising out of the same incident.
- (b) The arbitrator referred to in sub-paragraph (a) above shall be selected by agreement between the Contracting Parties concerned from amongst the nationals of the receiving State

² The text of Article VIII above is identical with that of the redraft of Article VIII in MS-D(51) 26 (23 April 1951), which has therefore been omitted.

who hold or have held high judicial office. If the Contracting Parties concerned are unable, within a reasonable time, to agree upon the arbitrator, either may request the Chairman of the North Atlantic Council Deputies to select a person with the aforesaid qualifications.

- (c) Any decision taken by the arbitrator shall be binding and conclusive upon the Contracting Parties.
- (d) The amount of any compensation awarded by the arbitrator shall be distributed in accordance with the provisions of paragraph 5(e) (i), (ii) and (iii) of this Article.
- (e) The compensation of the arbitrator shall be fixed by agreement between the Contracting Parties concerned and shall, together with the necessary expenses incidental to the performance of his duties, be defrayed in equal proportions by them.
- (f) Nevertheless each Contracting Party waives its claim in any such case where the damage is less than:—

Belgium	B.fr.	70,000	Luxembourg	L.fr.	70,000
Canada	\$	1,460	Netherlands	Fl.	5,320
Denmark	Kr.	9,670	Norway	Kr.	10,000
France	F.fr.	490,000	Portugal	Es.	40,250
Iceland	Kr.	22,800	United Kingdom	£	500
Italy	Li.	850,000	United States	\$	1,400

Any other Contracting Party whose property has been damaged in the same incident shall also waive its claim if the damage is less than the above amount. In the case of considerable variation in the rates of exchange between these currencies the Contracting Parties shall agree on the appropriate adjustments of these amounts.

3. For the purposes of paragraphs 1 and 2 of this Article the expression “owned by a Contracting Party” in the case of a vessel includes a vessel on bare boat charter to that Contracting Party or requisitioned by it on bare boat terms or seized by it in prize (except to the extent that the risk of loss or liability is borne by some person other than such Contracting Party or its insurer).

4. Each Contracting Party waives all its claims against any other Contracting Party for injury or death suffered by any member of its armed services while such member was engaged in the performance of his official duties.

5. Claims (other than contractual claims and those to which paragraph 6 of this Article applies) arising out of acts or omissions for which a force or civilian component is responsible and causing damage in the territory of the receiving State to third parties, other than

any of the Contracting Parties, shall be dealt with by the receiving State in accordance with the following provisions:

- (a) Claims shall be filed, considered and settled or adjudicated in accordance with the laws and regulations of the receiving State with respect to claims arising from the activities of its own armed forces.
- (b) The receiving State may settle any such claims, and payment of the amount agreed upon or determined by adjudication shall be made by the receiving State in its currency.
- (c) Such payment, or the final adjudication by the competent tribunals of the receiving State denying payment, shall be binding and conclusive upon the Contracting Parties.
- (d) Every claim paid by the receiving State shall be communicated to the sending States concerned together with full particulars and a proposed distribution in conformity with sub-paragraphs (e) (i), (ii) and (iii) below. In default of a reply within two months, the proposed distribution shall be regarded as accepted.
- (e) The cost incurred in satisfying claims pursuant to the preceding sub-paragraphs and paragraph 2 of this Article shall be distributed between the Contracting Parties, as follows:
 - (i) Where one sending State alone is responsible, the amount awarded or adjudged shall be distributed in the proportion of 25% chargeable to the receiving State and 75% chargeable to the sending State.
 - (ii) Where more than one State is responsible for the damage, the amount awarded or adjudged shall be distributed equally among them: however, if the receiving State is not one of the States responsible, its contribution shall be half that of each of the sending States.
 - (iii) Where the damage was caused by the armed services of the Contracting Parties and it is not possible to attribute it specifically to one or more of those armed services, the amount awarded or adjudged shall be distributed equally among the Contracting Parties concerned: however, if the receiving State is not one of the States by whose armed services the damage was caused, its contribution shall be half that of each of the sending States concerned.
 - (iv) Every half-year, a statement of the sums paid by the receiving State in the course of the half-yearly period in respect of every case regarding which the proposed distribution on a percentage basis has been accepted, shall be sent to the sending States concerned, together with a re-

quest for reimbursement. Such reimbursement shall be made within the shortest possible time, in the currency of the receiving State.

- (f) In cases where the application of the provisions of subparagraphs (b) and (e) of this paragraph would cause a Contracting Party serious hardship, it may request the North Atlantic Council to arrange a settlement of a different nature.
- (g) A member of a force or civilian component shall not be subject to any proceedings for the enforcement of any judgment given against him in the receiving State in a matter arising from the performance of his official duties.
- (h) The provisions of this paragraph shall not apply to any claims arising out of or in connexion with the navigation or operation of a ship or the loading, carriage, or discharge of a cargo, other than claims for death or personal injury to which paragraph 4 of this Article does not apply.

6. Claims against members of a force or civilian component arising out of tortious acts or omissions in the receiving State not relating to the performance of their official duties shall be dealt with in the following manner:

- (a) The authorities of the receiving State shall consider the claim and assess compensation to the claimant in a fair and just manner, taking into account all the circumstances of the case, including the conduct of the injured person, and shall prepare a report on the matter.
- (b) The report shall be delivered to the authorities of the sending State, who shall then decide without delay whether they will offer an *ex gratia* payment, and if so, of what amount.
- (c) If an offer of *ex gratia* payment is made, and accepted by the claimant in full satisfaction of his claim, the authorities of the sending State shall make the payment themselves and inform the authorities of the receiving State of their decision and of the sum paid.
- (d) Nothing in this paragraph shall affect the jurisdiction of the courts of the receiving State to entertain an action against a member of a force or of a civilian component unless and until there has been payment in full satisfaction of the claim.

7. If a dispute arises whether a tortious act or omission of a member of a force or civilian component related to the performance of his duties, the question shall be submitted to an arbitrator appointed in accordance with paragraph 2(b) of this Article, whose decision on this point shall be final and conclusive.

8. Claims arising out of contracts concluded by members of a force or civilian component in the execution of their official duties shall be dealt with by the authorities of the force and the courts of the receiving State shall have jurisdiction in regard thereto if they cannot otherwise be settled.

9. The sending State shall not claim immunity from the jurisdiction of the courts of the receiving State for members of a force or civilian component in respect of the civil jurisdiction of the courts of the receiving State except to the extent provided in paragraph 5(g) of this Article.

10. The authorities of the sending State and of the receiving State shall co-operate in the procurement of evidence for a fair hearing and disposal of claims in regard to which the Contracting Parties are concerned.

ARTICLE IX

1. Members of a force or of a civilian component and their dependents may purchase locally goods necessary for their own consumption, and such services as they need, under the same conditions as the nationals of the receiving State.

2. Goods which are required from local sources for the subsistence of a force or civilian component shall normally be purchased through the authorities which purchase such goods for the armed services of the receiving State. In order to avoid such purchases having any adverse effect on the economy of the receiving State, the competent authorities of that State shall indicate, when necessary, any articles the purchase of which should be restricted or forbidden.

3. Subject to bilateral agreements already in force or which may hereafter be made between the authorised representatives of the sending and receiving States, the authorities of the receiving State shall assume sole responsibility for making suitable arrangements to make available to a force or civilian component the buildings and grounds which it requires, as well as facilities and services connected therewith. These agreements and arrangements shall be, as far as possible, in accordance with the regulations governing the accommodation and billeting of similar personnel of the receiving State. In the absence of a specific contract to the contrary, the laws of the receiving State shall determine the rights and obligations arising out of the occupation or use of the buildings, grounds or facilities.

4. Local civilian labour requirements of a force or civilian component shall be satisfied in the same way as the comparable requirements of the receiving State and with the assistance of the authorities of the receiving State through the employment exchanges. The con-

ditions of employment and work, in particular wages, supplementary payments and conditions for the protection of workers, shall be those laid down by the legislation of the receiving State. Such civilian workers employed by a force or civilian component shall not be regarded for any purpose as being members of that force or civilian component.

5. When a force or a civilian component has at the place where it is stationed inadequate medical or dental facilities, its members and their dependents may receive medical and dental care, including hospitalisation, under the same conditions as comparable personnel of the receiving State.

6. The receiving State shall give the most favourable consideration to requests for the grant to members of a force or of a civilian component of travelling facilities and concessions with regard to fares. These facilities and concessions will be the subject of special arrangements to be made between the Governments concerned.

7. Subject to any general or particular financial arrangements between the Contracting Parties, payment in local currency for goods, accommodation and services furnished under paragraphs 2, 3, 4 and, if necessary, 5 and 6, shall be made promptly by the authorities of the force.

8. Neither a force, nor a civilian component, nor the members thereof, nor their dependents, shall by reason of this Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the receiving State.

ARTICLE X

1. Where the legal incidence of any form of taxation in the receiving State depends upon residence or domicile, periods during which a member of a force or civilian component is in the territory of that State by reason solely of his being a member of such force or civilian component shall not be considered as periods of residence therein, or as creating a change of residence or domicile, for the purposes of such taxation. Members of a force or civilian component shall be exempt from taxation in the receiving State on the salary and emoluments paid to them as such members by the sending State or on any tangible movable property the presence of which in the receiving State is due solely to their temporary presence there.

2. Nothing in this Article shall prevent taxation of a member of a force or civilian component with respect to any profitable enterprise, other than his employment as such member, in which he may engage in the receiving State, and, except as regards his salary and emoluments and the tangible movable property referred to in para-

graph 1, nothing in this Article shall prevent taxation to which, even when regarded as having his residence or domicile outside the territory of the receiving State, such member is liable under the law of that State.

3. Nothing in this Article shall apply to "duty" as defined in paragraph 12 of Article XI.

4. For the purposes of this Article the term "member of a force" shall not include any person who is a national of the receiving State.

ARTICLE XI

1. Save as provided expressly to the contrary in this Agreement, members of a force and of a civilian component as well as their dependents shall be subject to the laws and regulations administered by the customs authorities of the receiving State. In particular the customs authorities of the receiving State shall have the right, under the general conditions laid down by the laws and regulations of the receiving State, to search members of a force or civilian component and their dependents and to examine their luggage and vehicles, and to seize articles pursuant to such laws and regulations.

2. The temporary importation and re-exportation of service vehicles under their own power shall be authorised free of duty on presentation of a triptyque in the form shown in the Appendix to this Agreement. The temporary importation of such vehicles not under their own power shall be governed by paragraph 4 of this Article and the re-exportation thereof by paragraph 8. These vehicles shall be exempt from any tax payable in respect of the use of vehicles on the roads.

3. Official documents under official seal shall not be subject to customs inspection. Couriers, whatever their status, carrying these documents must be in possession of an individual movement order, issued in accordance with Article III. This movement order shall show the number of despatches carried and certify that they contain only official documents.

4. The force may import free of duty the equipment for the force and reasonable quantities of provisions, supplies and other goods for the exclusive use of the force and, in cases where such use is permitted by the receiving State, its civilian component and dependents. This duty-free importation shall be subject to the deposit, at the customs office for the place of entry, together with the customs documents, of a certificate in a form agreed between the receiving State and the sending State signed by a person authorised by the sending State for that purpose. The designation of the person authorised to sign the certificates as well as specimens of the signatures and stamps to be used,

shall be sent to the customs administration of the receiving State.

5. A member of a force or civilian component may, at the time of his first arrival to take up service in the receiving State or at the time of the first arrival of any dependent to join him, import his personal effects and furniture free of duty for the term of such service.

6. Members of a force or civilian component may import temporarily free of duty their private motor vehicles for the personal use of themselves and their dependents. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

7. Imports made by the authorities of a force other than for the exclusive use of that force and its civilian component, and imports, other than those dealt with in paragraphs 5 and 6 of this Article, effected by members of a force or civilian component are not, by reason of this Article, entitled to any exemption from duty or other conditions.

8. Goods which have been imported duty-free under paragraphs 2, 4, 5 or 6 above:

(a) may be re-exported freely, provided that, in the case of goods imported under paragraph 4, a certificate, issued in accordance with that paragraph, is presented to the customs office: the customs authorities, however, may verify that goods re-exported are as described in the certificate, if any, and have in fact been imported under the conditions of paragraphs 2, 4, 5 or 6 as the case may be;

(b) shall not normally be disposed of in the receiving State by way of either sale or gift: however, in particular cases such disposal may be authorised on conditions imposed by the authorities concerned of the receiving State (for instance, on payment of duty and tax and compliance with the requirements of the controls of trade and exchange).

9. Goods purchased in the receiving State shall be exported therefrom only in accordance with the regulations in force in the receiving State.

10. Special arrangements for crossing frontiers shall be granted by the customs authorities to regularly constituted units or formations, provided that the customs authorities concerned have been duly notified in advance.

11. Special arrangements shall be made by the receiving State so that fuel, oil and lubricants for use in service vehicles, aircraft and vessels of a force or civilian component, may be delivered free of all duties and taxes.

12. In paragraphs 1–10 of this Article,

“duty” means customs duties and all other duties and taxes payable on importation or exportation, as the case may be, except dues and taxes in respect of services rendered;

“import” includes goods withdrawn from customs bonded warehouse or continuing customs custody, provided that the goods concerned have not been grown, produced or manufactured in the receiving State.

13. The provisions of this Article shall apply to the goods concerned not only when they are imported into or exported from the receiving State but also when they are in transit through the territory of a Contracting Party, and for this purpose the expression “receiving State” in this Article shall be regarded as including any Contracting Party through whose territory the goods are passing in transit.

ARTICLE XII

1. The customs or fiscal authorities of the receiving State may, as a condition of the grant of any customs or fiscal exemption or concession provided for in this Agreement, require such conditions to be observed as they may deem necessary to prevent abuse.

2. These authorities may refuse any exemption provided for by this Agreement in respect of the importation into the receiving State of articles grown, produced or manufactured in that State which have been exported therefrom without payment of, or upon repayment of, taxes or duties which would have been chargeable but for such exportation. Goods removed from a customs warehouse shall be deemed to be imported if they were regarded as having been exported by reason of being deposited in the warehouse.

ARTICLE XIII

1. In order to prevent offences against customs and fiscal laws and regulations, the authorities of the receiving and of the sending States shall assist each other in the conduct of enquiries and the collection of evidence.

2. The authorities of a force shall render all assistance within their power to ensure that articles liable to seizure by, or on behalf of, the customs or fiscal authorities of the receiving State are handed to those authorities.

3. The authorities of a force shall render all assistance within their power to ensure the payment of duties, taxes and penalties payable by members of the force or civilian component or their dependents.

4. Service vehicles and articles belonging to a force or to its civ-

ilian component, and not to a member of such force or civilian component, seized by the authorities of the receiving State in connexion with an offence against its customs or fiscal laws or regulations shall be handed over to the appropriate authorities of the force concerned.

ARTICLE XIV

1. A force, a civilian component and the members thereof, as well as their dependents, shall remain subject to the foreign exchange regulations of the sending State and shall also be subject to the regulations of the receiving State.

2. The foreign exchange authorities of the sending and the receiving States may issue special regulations applicable to a force or civilian component or the members thereof as well as to their dependents.

ARTICLE XV

1. Subject to paragraph 2 of this Article, this Agreement shall remain in force in the event of hostilities to which the North Atlantic Treaty applies, except that the provisions for settling claims in paragraphs 2 and 5 of Article VIII shall not apply to war damage, and that the provisions of the Agreement, and, in particular of Articles III and VII, shall immediately be reviewed by the Contracting Parties concerned, who may agree to such modifications as they may consider desirable regarding the application of the Agreement between them.

2. In the event of such hostilities, each of the Contracting Parties shall have the right, by giving 60 days notice to the other Contracting Parties, to suspend the application of any of the provisions of this Agreement so far as it is concerned. If this right is exercised, the Contracting Parties shall immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

ARTICLE XVI

All differences between the Contracting Parties relating to the interpretation or application of this Agreement shall be settled by negotiation between them without recourse to any outside jurisdiction. Except where express provision is made to the contrary in this Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council.

ARTICLE XVII

Any Contracting Party may at any time request the revision of

any Article of this Agreement. The request shall be addressed to the North Atlantic Council.

ARTICLE XVIII

1. The present Agreement shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Government of the United States of America, which shall notify each signatory State of the date of deposit thereof.

2. Thirty days after four signatory States have deposited their instruments of ratification the present Agreement shall come into force between them. It shall come into force for each other signatory State thirty days after the deposit of its instrument of ratification.

3. After it has come into force, the present Agreement shall, subject to the approval of the North Atlantic Council and to such conditions as it may decide, be open to accession on behalf of any State which accedes to the North Atlantic Treaty. Accession shall be effected by the deposit of an instrument of accession with the Government of the United States of America, which shall notify each signatory and acceding State of the date of deposit thereof. In respect of any State on behalf of which an instrument of accession is deposited, the present Agreement shall come into force thirty days after the date of the deposit of such instrument.

ARTICLE XIX

1. The present Agreement may be denounced by any Contracting Party after the expiration of a period of four years from the date on which the Agreement comes into force.

2. The denunciation of the Agreement by any Contracting Party shall be effected by a written notification addressed by that Contracting Party to the Government of the United States of America which shall notify all the other Contracting Parties of each such notification and the date of receipt thereof.

3. The denunciation shall take effect one year after the receipt of the notification by the Government of the United States of America. After the expiration of this period of one year, the Agreement shall cease to be in force as regards the Contracting Party which denounces it, but shall continue in force for the remaining Contracting Parties.

ARTICLE XX³

[1. Subject to the provisions of paragraphs 2 and 3 of this Article,

³ The whole of Article XX is enclosed within square brackets in the original.

the present Agreement shall apply only to the metropolitan area of a Contracting Party.

2. Any State may, at the time of the deposit of its instrument of ratification or accession or at any time thereafter, declare by notification given to the Government of the United States of America that the present Agreement shall extend to all or any of the territories for whose international relations it is responsible in the North Atlantic Treaty area and the Agreement shall extend to the territory or territories named therein thirty days after the receipt by the Government of the United States of America of the notification, or when it has come into force under Article XVIII, whichever is the later.

3. A State which has made a declaration under paragraph 2 of this Article extending the present Agreement to any territory for whose international relations it is responsible may denounce the Agreement separately in respect of that territory in accordance with the provisions of Article XIX.]

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed the present Agreement.

Done in London this ----- day of -----, in the English and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

[There follows an Appendix, identical with the Appendix contained in the final version of the Agreement.]

MS-D(51) 29

Agreement on the Status of NATO, National Representatives and International Staff—Revised Draft (5 May 1951) ¹

Draft Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff

The States signatory to the present Agreement,

Considering that for the exercise of their functions and the fulfilment of their purposes, it is necessary that the North Atlantic Treaty Organisation, its officials and the representatives of Member States

¹ Previous reference: MS-D(51) 25 (20 April 1951). For discussion of present text, see MS-R(51) 21-23 (7-8 June 1951).

attending meetings thereof should have the status set out hereunder,
Have agreed as follows:

Part I.—General

ARTICLE 1

In the present Agreement,

- (a) “the Organisation” means the North Atlantic Treaty Organisation consisting of the Council established under Article 9 of the North Atlantic Treaty and its subsidiary bodies;
- (b) “the Council” means the Council itself and the Council Deputies;
- (c) “subsidiary bodies” means any organ, committee or service established by the Council or under its authority, except those to which in accordance with Article 2 this Agreement does not apply.

ARTICLE 2

The present Agreement shall not apply to any military headquarters established in pursuance of the North Atlantic Treaty or to any other military body made the subject of a separate status agreement.

ARTICLE 3

The Organisation shall co-operate at all times with the competent authorities of Member States to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connexion with the immunities and privileges set out in the present Agreement. If any Member State considers that there has been an abuse of any immunity or privilege conferred by this Agreement, consultations shall be held between that State and the Organisation to determine whether any such abuse has occurred, and, if so, to attempt to ensure that no repetition occurs. A Member State which considers that any person has abused any immunity or privilege granted to him under this Agreement may require him to leave its territory.

Part II.—Personality and Capacity

ARTICLE 4

The Organisation shall possess juridical personality; it shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings.

Part III.—Property, Funds and Assets

ARTICLE 5

The Organisation, its property and assets, wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process, except in so far as in any particular case the Council, acting on behalf of the Organisation, may expressly authorise the waiver of this immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution or detention of property.

ARTICLE 6

The premises of the Organisation shall be inviolable. Its property and assets, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of interference.

ARTICLE 7

The archives of the Organisation and in general all documents belonging to it or held by it shall be inviolable, wherever located.

ARTICLE 8

1. Without being restricted by financial controls, regulations or moratoria of any kind,

- (a) the Organisation may hold currency of any kind and operate accounts in any currency;
- (b) the Organisation may freely transfer its funds from one country to another or within any country and convert any currency held by it into any other currency.

2. In exercising its rights under paragraph 1 above, the Organisation shall pay due regard to any representations made by any Member State and shall give effect to such representations in so far as it is practicable to do so.

ARTICLE 9

The Organisation, its assets, income and other property shall be exempt:

- (a) from all direct taxes; the Organisation will not, however, claim exemption from rates, taxes or dues which are no more than charges for public utility services;
- (b) from all customs duties and quantitative restrictions on imports and exports in respect of articles imported or exported

by the Organisation for its official use; articles imported under such exemption shall not be disposed of, by way either of sale or gift, in the country into which they are imported except under conditions approved by the Government of that country.

- (c) from all customs duties and quantitative restrictions on imports and exports in respect of its publications.

ARTICLE 10

While the Organisation will not as a general rule claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the Organisation is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable Member States will whenever possible make the appropriate administrative arrangements for the remission or return of the amount of duty or tax.

Part IV.—Communications

ARTICLE 11

The Organisation shall enjoy in the territory of each Member State, for its official communications, treatment at least as favourable as that accorded by that State to the Government of any other Member State, including its diplomatic mission, in the matter of priorities, rates and taxes on mails, cables, telegrams, radiotelegrams, telephotos, telephone calls, and other communications and press rates for information to the press and radio, except in so far as such treatment would be inconsistent with the terms of the International Telecommunications Convention.

ARTICLE 12

1. No censorship shall be applied to the official correspondence and other official communications of the Organisation.

2. The Organisation shall have the right to use codes and to despatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

3. Nothing in this Article shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a Member State and the Council.

Part V.—Representatives of Member States

ARTICLE 13

Every person designated by a Member State as its principal permanent representative to the Organisation in the territory of another Member State and such resident members of his official civilian or military staff as may be agreed upon between these States shall enjoy the immunities and privileges normally accorded to diplomatic representatives and their official staff of comparable rank.

ARTICLE 14

1. Any representative of a Member State to the Council or any of its subsidiary bodies who is not covered by Article 13 shall, while present in the territory of another Member State for the discharge of his duties, enjoy the following privileges and immunities:

- (a) the same immunity from personal arrest or detention and from seizure of his personal baggage as is accorded to diplomatic representatives of comparable rank;
- (b) in respect of words spoken or written and of acts done by him in his official capacity, immunity from legal process;
- (c) inviolability for all papers and documents;
- (d) the right to use codes and to receive and send papers or correspondence by courier or in sealed bags;
- (e) exemption in respect of himself and his spouse from immigration restrictions, aliens registration or national service obligations in the State which he is visiting or through which he is passing in the exercise of his functions;
- (f) the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic representatives of comparable rank;
- (g) the same immunities and facilities in respect of his personal baggage as are accorded to diplomatic representatives of comparable rank;
- (h) the right to import free of duty their furniture and effects at the time of first arrival to take up their post in the country in question, and, on the termination of their functions in that country, to remove such furniture and effects free of duty to their future country of residence, subject in either case to such conditions as the Government of the country in which the right is being exercised may deem necessary;
- (i) the right to import temporarily free of duty their private

motor vehicles for their own personal use and subsequently to re-export such vehicles free of duty, subject in either case to such conditions as the Government of the country concerned may deem necessary.

2. Where the legal incidence of any form of taxation depends upon residence, a period during which a representative to whom this Article applies is present in the territory of another Member State for the discharge of his duties shall not be considered as a period of residence. In particular, he shall be exempt from taxation on his official salary and emoluments during such periods of duty.

3. In this Article "representative" shall be deemed to include all representatives, advisers and technical experts of delegations.

ARTICLE 15

Official secretarial staff accompanying a representative of a Member State who are not covered by Articles 13 or 14 shall, while present in the territory of another Member State for the discharge of their duties, be accorded the privileges and immunities set out in paragraph 1(b), (c), (e), (f), (h) and (i) and paragraph 2 of Article 14.

ARTICLE 16

Privileges and immunities are accorded to the representatives of Member States and their staffs not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connexion with the North Atlantic Treaty. Consequently, a Member State not only has the right, but is under a duty to waive the immunity of its representatives and members of their staffs in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the purposes for which the immunity is accorded.

ARTICLE 17

The provisions of Articles 13 to 15 above shall not require any State to grant any of the privileges or immunities referred to therein to any person who is its national or to any person as its representative or as a member of the staff of such representative.

Part VI.—Officials of the Organisation

ARTICLE 18

The categories of officials of the Organisation to which this Part of the Agreement applies shall be agreed between the Chairman of

the Council Deputies and the Governments of Member States. The Chairman of the Council Deputies shall communicate to Member States the names of the officials included in these categories.

ARTICLE 19

Officials of the Organisation to whom this Part of the Agreement applies shall:

- (a) be immune from legal process in respect of words spoken or written and of acts done by them in their official capacity and within the limits of their authority;
- (b) [be exempt from taxation on the salaries and emoluments paid to them in their capacity as such officials, provided that a Member State may tax its own nationals unless the Member States agree on a system whereby the salaries and emoluments concerned are taxed by the Organisation itself;]² or
[enjoy the same exemption from taxation in respect of the salaries and emoluments paid to them in their capacity as such officials as is enjoyed by officials of the other principal international organisations and on the same conditions;]²
- (c) be exempt from the obligation to participate in any social security scheme;
- (d) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and aliens' registration;
- (e) be accorded the same privileges in respect of currency or exchange restrictions as are accorded to officials of comparable rank of diplomatic missions;
- (f) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as officials of comparable rank of diplomatic missions;
- (g) have the right to import free of duty their furniture and effects at the time of first arrival to take up their post in the country in question, and, on the termination of their functions in that country, to remove such furniture and effects to their future country of residence, subject in either case to such conditions as the Government of the country in which the right is being exercised may deem necessary;
- (h) have the right to import temporarily free of duty their private motor vehicles for their own personal use and subsequently to

² The two alternative texts of subparagraph (b) above are in square brackets in the original text.

re-export such vehicles free of duty, subject in either case to such conditions as the Government of the country concerned may deem necessary.

ARTICLE 20

In addition to the immunities and privileges specified in Article 19, the Chief of the International Staff of the Organisation, the Coordinator of North Atlantic Defence Production, and any other permanent official of the same rank agreed between the Chairman of the Council Deputies and the Governments of Member States, shall be accorded in respect of himself, his spouse and children under the age of 21 the privileges and immunities normally accorded to diplomatic representatives of comparable rank.

ARTICLE 21

Privileges and immunities are granted to officials in the interests of the Organisation and not for the personal benefit of the individuals themselves. The Chairman of the Council Deputies shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organisation.

Part VII.—Experts on Missions for the Organisation

ARTICLE 22

Experts (other than officials coming within the scope of Part VI) employed on missions on behalf of the Organisation shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions during the period of their service, including the time spent on journeys in connexion with such service:

- (a) immunity from personal arrest or detention and from seizure of their personal baggage;
- (b) in respect of words spoken or written or acts done by them in the performance of their official functions for the Organisation, immunity from legal process;
- (c) the same facilities in respect of currency or exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign Governments on temporary official missions;
- (d) inviolability for all papers and documents relating to the work on which they are engaged for the Organisation.

ARTICLE 23

Privileges and immunities are granted to experts in the interests of the Organisation and not for the personal benefit of the individuals concerned. The Chairman of the Council Deputies shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organisation.

Part VIII.—Settlement of Disputes

ARTICLE 24

The Council shall make provision for appropriate modes of settlement of:

- (a) disputes arising out of contracts or other disputes of a private character to which the Organisation is a party;
- (b) disputes involving any official of the Organisation to whom Part VI of this Agreement applies, or any expert to whom Part VII applies, who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with the provisions of Articles 21 or 23.

Part IX.—Supplementary Agreements

ARTICLE 25

The Council may conclude with any Member State or States supplementary agreements modifying the provisions of the present Agreement, so far as that State or those States are concerned. The Council shall inform all Member States of any agreements concluded under this Article.

Part X.—Final Provisions

ARTICLE 26

1. The present Agreement shall be open for signature by Member States of the Organisation and shall be subject to ratification. Instruments of ratification shall be deposited with the Government of the United States of America which will notify all signatory States of each such deposit.

2. As soon as six signatory States have deposited their instruments of ratification, the present Agreement shall come into force in respect of those States. It shall come into force in respect of each other signatory State, on the date of the deposit of its instrument of ratifica-

tion. Nevertheless, pending the entry into force of the Agreement, in accordance with the provisions of the preceding paragraph, the signatory States agree, in order to avoid any delay in the efficient working of the Organisation, to apply it provisionally from the date of signature, so far as it is possible to do so under their respective constitutional systems.

In witness whereof the undersigned plenipotentiaries, being duly authorised to that effect, have signed the present Agreement.

Done in London this ----- day of (month, year) in French and in English, both texts being equally authoritative, in a single copy which shall be deposited in the archives of the Government of the United States of America which will transmit a certified copy to each of the signatory States.

MS-D(51) 29(R)

Agreement on the Status of NATO, National Representatives and International Staff—Revised Version (11 June 1951)¹

Draft Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff

The States signatory to the present Agreement,

Considering that for the exercise of their functions and the fulfilment of their purposes, it is necessary that the North Atlantic Treaty Organisation, its international staff and the representatives of Member States attending meetings thereof should have the status set out hereunder,

Have agreed as follows:

Part I.—General

ARTICLE 1

In the present Agreement,

- (a) "the Organisation" means the North Atlantic Treaty Organisation consisting of the Council and its subsidiary bodies;
- (b) "the Council" means the Council established under Article 9 of the North Atlantic Treaty and the Council Deputies;
- (c) "subsidiary bodies" means any organ, committee or service established by the Council or under its authority, unless the Council decides otherwise.

¹ Reference: MS-D(51) 29 (5 May 1951) for previous text; MS-R(51) 24 (14 June 1951) for discussion of present text.

ARTICLE 2

The present Agreement shall not apply to any military headquarters established in pursuance of the North Atlantic Treaty.

ARTICLE 3

The Organisation and Member States shall co-operate at all times to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the immunities and privileges set out in the present Agreement. If any Member State considers that there has been an abuse of any immunity or privilege conferred by this Agreement, consultations shall be held between that State and the Organisation, or between the States concerned, to determine whether any such abuse has occurred, and, if so, to attempt to ensure that no repetition occurs. Notwithstanding any other provisions of this Agreement, a Member State which considers that any person has abused his privilege of residence or any other privilege or immunity granted to him under this Agreement may require him to leave its territory.

Part II.—The Organisation

ARTICLE 4

The Organisation shall possess juridical personality; it shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings.

ARTICLE 5

The Organisation, its property and assets, wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process, except in so far as in any particular case the Council, acting on behalf of the Organisation, may expressly authorise the waiver of this immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution or detention of property.

ARTICLE 6

The premises of the Organisation shall be inviolable. Its property and assets, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of interference.

ARTICLE 7

The archives of the Organisation and all documents belonging to it or held by it shall be inviolable, wherever located.

ARTICLE 8

1. Without being restricted by financial controls, regulations or moratoria of any kind,

- (a) the Organisation may hold currency of any kind and operate accounts in any currency;
- (b) the Organisation may freely transfer its funds from one country to another or within any country and convert any currency held by it into any other currency at the most favourable official rates of exchange.

2. In exercising its rights under paragraph 1 above, the Organisation shall pay due regard to any representations made by any Member State and shall give effect to such representations in so far as it is practicable to do so.

ARTICLE 9

The Organisation, its assets, income and other property shall be exempt:

- (a) from all direct taxes; the Organisation will not, however, claim exemption from rates, taxes or dues which are no more than charges for public utility services;
- (b) from all customs duties and quantitative restrictions on imports and exports in respect of articles imported or exported by the Organisation for its official use; articles imported under such exemption shall not be disposed of, by way either of sale or gift, in the country into which they are imported except under conditions approved by the Government of that country;
- (c) from all customs duties and quantitative restrictions on imports and exports in respect of its publications.

ARTICLE 10

While the Organisation will not as a general rule claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the Organisation is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable Member States will whenever possible make the appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE 11

1. No censorship shall be applied to the official correspondence and other official communications of the Organisation.

2. The Organisation shall have the right to use codes and to despatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

3. Nothing in this Article shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a Member State and the Council.

Part III.—Representatives of Member States

ARTICLE 12

[Every person designated by a Member State as its principal permanent representative to the Organisation in the territory of another Member State and such resident members of his official civilian or military staff as may be agreed upon between these States and the Organisation shall enjoy the immunities and privileges normally accorded to diplomatic representatives and their official staff of comparable rank].²

ARTICLE 13

1. Any representative of a Member State to the Council or any of its subsidiary bodies who is not covered by Article 12 shall, while present in the territory of another Member State for the discharge of his duties, enjoy the following privileges and immunities:

- (a) the same immunity from personal arrest or detention as that accorded to diplomatic personnel of comparable rank;
- (b) in respect of words spoken or written and of acts done by him in his official capacity, immunity from legal process;
- (c) inviolability for all papers and documents;
- (d) the right to use codes and to receive and send papers or correspondence by courier or in sealed bags;
- (e) the same exemption in respect of himself and his spouse from immigration restrictions, aliens registration and national service obligations as that accorded to diplomatic personnel of comparable rank;
- (f) the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic personnel of comparable rank;

² Article 12 is found in square brackets in the original text.

- (g) the same immunities and facilities in respect of his personal baggage as are accorded to diplomatic personnel of comparable rank;
- (h) the right to import free of duty their furniture and effects at the time of first arrival to take up their post in the country in question, and, on the termination of their functions in that country, to remove such furniture and effects free of duty, subject in either case to such conditions as the Government of the country in which the right is being exercised may deem necessary;
- (i) the right to import temporarily free of duty their private motor vehicle for their own personal use and subsequently to re-export such vehicles free of duty, subject in either case to such conditions as the Government of the country concerned may deem necessary.

2. Where the legal incidence of any form of taxation depends upon residence, a period during which a representative to whom this Article applies is present in the territory of another Member State for the discharge of his duties shall not be considered as a period of residence. In particular, he shall be exempt from taxation on his official salary and emoluments during such periods of duty.

3. In this Article "representative" shall be deemed to include all representatives, advisers and technical experts of delegations.

ARTICLE 14

Official clerical staff accompanying a representative of a Member State who are not covered by Articles 12 or 13 shall, while present in the territory of another Member State for the discharge of their duties, be accorded the privileges and immunities set out in paragraph 1 (b), (c), (e), (f), (h) and (i) and paragraph 2 of Article 13.

ARTICLE 15

Privileges and immunities are accorded to the representatives of Member States and their staffs not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connexion with the North Atlantic Treaty. Consequently, a Member State not only has the right, but is under a duty to waive the immunity of its representatives and members of their staffs in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the purposes for which the immunity is accorded.

ARTICLE 16

The provisions of Articles 12 to 14 above shall not require any State to grant any of the privileges or immunities referred to therein to any person who is its national or to any person as its representative or as a member of the staff of such representative.

**Part IV.—International Staff and Experts
on Missions for the Organisation**

ARTICLE 17

The categories of officials in the Organisation to which Articles 18 and 19 apply shall be agreed between the Chairman of the Council Deputies and the Governments of Member States. The Chairman of the Council Deputies shall communicate to the Member States concerned the names of the officials included in these categories.

ARTICLE 18

Officials of the Organisation to whom this Part of the Agreement applies shall:

- (a) be immune from legal process in respect of words spoken or written and of acts done by them in their official capacity and within the limits of their authority;
- (b) be exempt from taxation on the salaries and emoluments paid to them by the Organisation in their capacity as such officials;
- (c) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and aliens' registration;
- (d) be accorded the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic personnel of comparable rank;
- (e) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as are accorded to diplomatic personnel of comparable rank;
- (f) have the right to import free of duty their furniture and effects at the time of first arrival to take up their post in the country in question, and, on the termination of their functions in that country, to remove such furniture and effects free of duty, subject in either case to such conditions as the Government of the country in which the right is being exercised may deem necessary;

- (g) have the right to import temporarily free of duty their private motor vehicles for their own personal use and subsequently to re-export such vehicles free of duty, subject in either case to such conditions as the Government of the country concerned may deem necessary.

ARTICLE 19

In addition to the immunities and privileges specified in Article 18, the Executive Secretary of the Organisation, the Co-ordinator of North Atlantic Defence Production, and such other permanent officials of similar rank as may be agreed between the Chairman of the Council Deputies and the Governments of Member States, shall be accorded the privileges and immunities normally accorded to diplomatic personnel of comparable rank, in accordance with international law.

ARTICLE 20

1. Experts (other than officials coming within the scope of Articles 18 or 19) employed on missions on behalf of the Organisation shall be accorded the following privileges and immunities so far as necessary for the effective exercise of their functions during the period of their service, including the time spent on journeys in connexion with such service:

- (a) immunity from personal arrest or detention and from seizure of their personal baggage;
- (b) in respect of words spoken or written or acts done by them in the performance of their official functions for the Organisation, immunity from legal process;
- (c) the same facilities in respect of currency or exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign Governments on temporary official missions;
- (d) inviolability for all papers and documents relating to the work on which they are engaged for the Organisation.

2. The Chairman of the Council Deputies shall communicate to the Member States concerned the names of any experts to whom this Article applies.

ARTICLE 21

Privileges and immunities are granted to officials and experts in the interests of the Organisation and not for the personal benefit of the individuals themselves. The Chairman of the Council Deputies shall have the right and the duty to waive the immunity of any expert in

any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organisation.

ARTICLE 22

The provisions of Articles 18 to 20 above shall not require any State to grant any of the privileges or immunities referred to therein to any person who is its national [except immunity from legal process in respect of words spoken or written or acts done by him in the performance of his official functions for the Organisation and inviolability for all papers and documents relating to the work on which he is engaged for the Organisation].³

Part V.—Settlement of Disputes

ARTICLE 23

The Council shall make provision for appropriate modes of settlement of:

- (a) disputes arising out of contracts or other disputes of a private character to which the Organisation is a party;
- (b) disputes involving any official or expert of the Organisation to whom Part IV of this Agreement applies who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with the provisions of Article 21.

Part VI.—Supplementary Agreements

ARTICLE 24

The Council may conclude with any Member State or States supplementary agreements modifying the provisions of the present Agreement, so far as that State or those States are concerned.

Part VII.—Final Provisions

ARTICLE 25

1. The present Agreement shall be open for signature by Member States of the Organisation and shall be subject to ratification. Instruments of ratification shall be deposited with the Government of the United States of America which will notify signatory States of each such deposit.

2. As soon as six signatory States have deposited their instruments

³ Square brackets in original text.

of ratification, the present Agreement shall come into force in respect of those States. It shall come into force in respect of each other signatory State, on the date of the deposit of its instrument of ratification. Nevertheless, pending the entry into force of the Agreement, in accordance with the provisions of the preceding paragraph, the signatory States agree, in order to avoid any delay in the efficient working of the Organisation, to apply it provisionally from the date of signature, so far as it is possible to do so under their respective constitutional systems.

In witness whereof the undersigned plenipotentiaries have signed the present Agreement.

Done in London this ----- day of (month, year) in French and in English, both texts being equally authoritative, in a single copy which shall be deposited in the archives of the Government of the United States of America which will transmit a certified copy to each of the signatory States.

MS-D(51) 29(2R)

Agreement on the Status of NATO, National Representatives and International Staff—Revised Version (15 June 1951)¹

Draft Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff

The States signatory to the present Agreement,

Considering that for the exercise of their functions and the fulfilment of their purposes, it is necessary that the North Atlantic Treaty Organisation, its international staff and the representatives of Member States attending meetings thereof should have the status set out hereunder,

Have agreed as follows:

Part I.—General

ARTICLE 1

In the present Agreement,

- (a) “the Organisation” means the North Atlantic Treaty Organisation consisting of the Council and its subsidiary bodies;
- (b) “the Council” means the Council established under Article 9 of the North Atlantic Treaty and the Council Deputies;

¹ Reference: MS-D(51) 29(R) (11 June 1951) for previous version of text; MS-R(51) 25 (27 June 1951) for discussion of present text.

- (c) "subsidiary bodies" means any organ, committee or service established by the Council or under its authority, except those to which, in accordance with Article 2, this Agreement does not apply;
- (d) "Chairman of the Council Deputies" includes, in his absence, the Vice-Chairman acting for him.

ARTICLE 2

The present Agreement shall not apply to any military headquarters established in pursuance of the North Atlantic Treaty nor, unless the Council decides otherwise, to any other military body.

ARTICLE 3

The Organisation and Member States shall co-operate at all times to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connexion with the immunities and privileges set out in the present Agreement. If any Member State considers that there has been an abuse of any immunity or privilege conferred by this Agreement, consultations shall be held between that State and the Organisation, or between the States concerned, to determine whether any such abuse has occurred, and, if so, to attempt to ensure that no repetition occurs. Notwithstanding any other provisions of this Agreement, a Member State which considers that any person has abused his privilege of residence or any other privilege or immunity granted to him under this Agreement may require him to leave its territory.

Part II.—The Organisation

ARTICLE 4

The Organisation shall possess juridical personality; it shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings.

ARTICLE 5

The Organisation, its property and assets, wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process, except in so far as in any particular case the Chairman of the Council Deputies, acting on behalf of the Organisation, may expressly authorise the waiver of this immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution or detention of property.

ARTICLE 6

The premises of the Organisation shall be inviolable. Its property and assets, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of interference.

ARTICLE 7

The archives of the Organisation and all documents belonging to it or held by it shall be inviolable, wherever located.

ARTICLE 8

1. Without being restricted by financial controls, regulations or moratoria of any kind,

- (a) the Organisation may hold currency of any kind and operate accounts in any currency;
- (b) the Organisation may freely transfer its funds from one country to another or within any country and convert any currency held by it into any other currency at the most favourable official rate of exchange for a sale or purchase as the case may be.

2. In exercising its rights under paragraph 1 above, the Organisation shall pay due regard to any representations made by any Member State and shall give effect to such representations in so far as it is practicable to do so.

ARTICLE 9

The Organisation, its assets, income and other property shall be exempt:

- (a) from all direct taxes; the Organisation will not, however, claim exemption from rates, taxes or dues which are no more than charges for public utility services;
- (b) from all customs duties and quantitative restrictions on imports and exports in respect of articles imported or exported by the Organisation for its official use; articles imported under such exemption shall not be disposed of, by way either of sale or gift, in the country into which they are imported except under conditions approved by the Government of that country;
- (c) from all customs duties and quantitative restrictions on imports and exports in respect of its publications.

ARTICLE 10

While the Organisation will not as a general rule claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the Organisation is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable Member States will whenever possible make the appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE 11

1. The Organisation shall enjoy in the territory of each Member State, for its official communications, treatment at least as favourable as that accorded by that State to the Government of any other Member State, including its diplomatic mission, in the matter of priorities, rates and taxes on mails, telegrams, telephotos, telephone calls, and other communications and press rates for information to the press and radio, except in so far as such treatment would be inconsistent with the terms of the International Telecommunications Convention. Member States shall ensure that communications to which special treatment is accorded under this Article are not routed through the territory of any State which is not a Party to the present Agreement.

2. This Article shall not bind any Member State in respect of any facilities which are not operated by the Government.

ARTICLE 12

1. No censorship shall be applied to the official correspondence and other official communications of the Organisation.

2. The Organisation shall have the right to use codes and to despatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

3. Nothing in this Article shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a Member State and the Council.

Part III.—Representatives of Member States

ARTICLE 13

Every person designated by a Member State as its principal permanent representative to the Organisation in the territory of another

Member State, and such members of his official staff resident in that territory as may be agreed between the State which has designated them and the Organisation, and between the Organisation and the State in which they will be resident, shall enjoy the immunities and privileges accorded to diplomatic representatives and their official staff of comparable rank.

ARTICLE 14

1. Any representative of a Member State to the Council or any of its subsidiary bodies who is not covered by Article 13 shall, while present in the territory of another Member State for the discharge of his duties, enjoy the following privileges and immunities:

- (a) the same immunity from personal arrest or detention as that accorded to diplomatic personnel of comparable rank;
- (b) in respect of words spoken or written and of acts done by him in his official capacity, immunity from legal process;
- (c) inviolability for all papers and documents;
- (d) the right to use codes and to receive and send papers or correspondence by courier or in sealed bags;
- (e) the same exemption in respect of himself and his spouse from immigration restrictions, aliens registration and national service obligations as that accorded to diplomatic personnel of comparable rank;
- (f) the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic personnel of comparable rank;
- (g) the same immunities and facilities in respect of his personal baggage as are accorded to diplomatic personnel of comparable rank;
- (h) the right to import free of duty his furniture and effects at the time of first arrival to take up his post in the country in question, and, on the termination of his functions in that country, to re-export such furniture and effects free of duty, subject in either case to such conditions as the Government of the country in which the right is being exercised may deem necessary;
- (i) the right to import temporarily free of duty his private motor vehicle for his own personal use and subsequently to re-export such vehicle free of duty, subject in either case to such conditions as the Governments of the country concerned may deem necessary.

2. Where the legal incidence of any form of taxation depends on residence, a period during which a representative to whom this Article applies is present in the territory of another Member State for the

discharge of his duties shall not be considered as a period of residence. In particular, he shall be exempt from taxation on his official salary and emoluments during such periods of duty.

3. In this Article "representative" shall be deemed to include all representatives, advisers and technical experts of delegations. Each Member State shall communicate to the other Member States concerned, if they so request, the names of its representatives to whom this Article applies and the probable duration of their stay in the territories of such other Member States.

ARTICLE 15

Official clerical staff accompanying a representative of a Member State who are not covered by Articles 13 or 14 shall, while present in the territory of another Member State for the discharge of their duties, be accorded the privileges and immunities set out in paragraph 1 (b), (c), (e), (f), (h) and (i) and paragraph 2 of Article 14.

ARTICLE 16

Privileges and immunities are accorded to the representatives of Member States and their staffs not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connexion with the North Atlantic Treaty. Consequently, a Member State not only has the right, but is under a duty to waive the immunity of its representatives and members of their staff in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the purposes for which the immunity is accorded.

ARTICLE 17

The provisions of Articles 13 to 15 above shall not require any State to grant any of the privileges or immunities referred to therein to any person who is its national or to any person as its representative or as a member of the staff of such representative.

Part IV.—International Staff and Experts on Missions for the Organisation

ARTICLE 18

The categories of officials of the Organisation to which Articles 19 and 20 apply shall be agreed between the Chairman of the Council Deputies and each of the Member States concerned. The Chairman of

the Council Deputies shall communicate to the Member States the names of the officials included in these categories.

ARTICLE 19

Officials of the Organisation agreed upon under Article 18 shall:

- (a) be immune from legal process in respect of words spoken or written and of acts done by them in their official capacity and within the limits of their authority;
- (b) be exempt from taxation on the salaries and emoluments paid to them by the Organisation in their capacity as such officials;
- (c) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and aliens' registration;
- (d) be accorded the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic personnel of comparable rank;
- (e) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as are accorded to diplomatic personnel of comparable rank;
- (f) have the right to import free of duty their furniture and effects at the time of first arrival to take up their post in the country in question, and, on the termination of their functions in that country, to re-export such furniture and effects free of duty, subject in either case to such conditions as the Government of the country in which the right is being exercised may deem necessary;
- (g) have the right to import temporarily free of duty their private motor vehicles for their own personal use and subsequently to re-export such vehicles free of duty, subject in either case to such conditions as the Government of the country concerned may deem necessary.

ARTICLE 20

In addition to the immunities and privileges specified in Article 19, the Executive Secretary of the Organisation, the Co-ordinator of North Atlantic Defence Production, and such other permanent officials of similar rank as may be agreed between the Chairman of the Council Deputies and the Governments of Member States, shall be accorded the privileges and immunities normally accorded to diplomatic personnel of comparable rank, in accordance with international law.

ARTICLE 21

1. Experts (other than officials coming within the scope of Articles 19 or 20) employed on missions on behalf of the Organisation shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions while present in the territory of a Member State for the discharge of their duties:

- (a) immunity from personal arrest or detention and from seizure of their personal baggage;
- (b) in respect of words spoken or written or acts done by them in the performance of their official functions for the Organisation, immunity from legal process;
- (c) the same facilities in respect of currency or exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign Governments on temporary official missions;
- (d) inviolability for all papers and documents relating to the work on which they are engaged for the Organisation.

2. The Chairman of the Council Deputies shall communicate to the Member States concerned the names of any experts to whom this Article applies.

ARTICLE 22

Privileges and immunities are granted to officials and experts in the interests of the Organisation and not for the personal benefit of the individuals themselves. The Chairman of the Council Deputies shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organisation.

ARTICLE 23

[The provisions of Articles 19 to 21 above shall not require any State to grant any of the privileges or immunities referred to therein to any person who is its national, except:

- (a) immunity from legal process in respect of words spoken or written or acts done by him in the performance of his official functions for the Organisation;
- (b) inviolability for all papers and documents relating to the work on which he is engaged for the Organisation;
- (c) facilities in respect of currency or exchange restrictions so far as necessary for the effective exercise of his functions].²

² Article 23 is in square brackets in the original text.

Part V.—Settlement of Disputes

ARTICLE 24

The Council shall make provision for appropriate modes of settlement of:

- (a) disputes arising out of contracts or other disputes of a private character to which the Organisation is a party;
- (b) disputes involving any official or expert of the Organisation to whom Part IV of this Agreement applies who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with the provisions of Article 22.

Part VI.—Supplementary Agreements

ARTICLE 25

The Council may conclude with any Member State or States supplementary agreements modifying the provisions of the present Agreement, so far as that State or those States are concerned.

Part VII.—Final Provisions

ARTICLE 26

1. The present Agreement shall be open for signature by Member States of the Organisation and shall be subject to ratification. Instruments of ratification shall be deposited with the Government of the United States of America which will notify all signatory States of each such deposit.

2. As soon as six signatory States have deposited their instruments of ratification, the present Agreement shall come into force in respect of those States. It shall come into force in respect of each other signatory State, on the date of the deposit of its instrument of ratification.

In witness whereof the undersigned plenipotentiaries have signed the present Agreement.

Done in London this ----- day of (month, year) in French and in English, both texts being equally authoritative, in a single copy which shall be deposited in the archives of the Government of the United States of America which will transmit a certified copy to each of the signatory States.

D-D(51) 127**Status of Forces Agreement—Revised Draft (7 May 1951)¹***Report of the Chairman of the Working Group*

1. I have the honor to submit herewith a revised draft of the Agreement regarding the status of the forces of one Party to the North Atlantic Treaty serving in the territory of another Party.

2. The earlier draft,² submitted by the Chairman of the Working Group on 28 February 1951, was sent by the Council Deputies to Governments with a request for their observations. The Working Group has now prepared a new draft of the Agreement in the light of the observations received.

3. The amendments agreed upon by the Working Group concerned, for the most part, points of detail. The following should be specially noted:

- (a) The Preamble has been expanded to take note of the fact that the decision to send forces of one Party to serve in the territory of another Party will continue to be subject to separate arrangements between them.
- (b) The definition of "force" in paragraph 1(a) of Article I has been altered so as to make the Agreement applicable, unless the receiving State and the sending State agree otherwise, to all forces of one Party present in the territory of another Party in the North Atlantic Treaty area in connection with their official duties, and not only to forces on NATO duty. The reason for this is the administrative inconvenience of distinguishing between forces on NATO duty and those not on such duty.
- (c) A new Article XX has been added which provides for the separate application of the Agreement to colonial territories. This meets constitutional and administrative difficulties which some of the member States would have if the Agreement applied automatically to all their territories in the North Atlantic Treaty area.

4. The discussions of the Working Group showed that the revised draft is likely to be acceptable to member States with little or no further amendment, though no representative on the Working Group

¹ Reference: MS-D(51) 28 (27 April 1951) for previous version of text; for discussion of present text: D-R(51) 37 (9 May 1951); D-R(51) 41 (24 May 1951); MS-R(51) 19-20 (29-30 May 1951).

² D-D(51) 57 (28 February 1951).

committed his Government to the draft and there were one or two points which certain representatives thought their Governments might wish to raise again when the draft was considered by the Council Deputies.

5. The Working Group discussed the application of this Agreement to SHAPE and other NATO command headquarters. It was thought that some provisions could probably be applied as they stand but others, particularly those relating to the exercise of criminal jurisdiction (Article VII) and the settlement of claims (Article VIII) would clearly require modification and it might, therefore, be appropriate to deal with these headquarters by means of a Protocol to the Agreement. The Working Group recommends that the French Government should be asked to examine this matter in consultation with SHAPE and to submit proposals which might then be examined at a further meeting of the Working Group. The position of the Standing Group in Washington will also require consideration, though the general feeling of the Working Group was that the Standing Group should be covered by the Agreement regarding privileges and immunities of the Organization, National Representatives and International Staff.

6. Article VI of the draft Agreement provides that members of a force may possess and carry arms on condition that they are authorized to do so by their orders. The Working Group recommends that SHAPE should be invited to consider the possibility and desirability of drawing up standard regulations concerning the possession and carriage of arms for all troops under its command.

*Draft Agreement between the Parties to the North Atlantic
Treaty Regarding the Status of their Forces*

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949,

Considering that the forces of one Party may be sent, by arrangement, to serve in the territory of another Party;

Bearing in mind that the decision to send them and the conditions under which they will be sent, in so far as such conditions are not laid down by the present Agreement, will continue to be the subject of separate arrangements between the Parties concerned;

Desiring, however, to define the status of such forces while in the territory of another Party;

Have agreed as follows:

ARTICLE I

1. In this Agreement the expression—

- (a) “force” means the personnel belonging to the land, sea or air armed services of one Contracting Party when in the territory of another Contracting Party in the North Atlantic Treaty area in connexion with their official duties, provided that the two Contracting Parties concerned may agree that certain units or formations shall not be regarded as constituting or included in a “force” for the purposes of the present Agreement;
- (b) “civilian component” means the civilian personnel accompanying a force of a Contracting Party who are in the employ of an armed service of that Contracting Party, and who are not stateless persons, nor nationals of any State which is not a Party to the North Atlantic Treaty, nor nationals of, nor ordinarily resident in, the State in which the force is located;
- (c) “dependent” means the spouse of a member of a force or of a civilian component, or a child of such member depending on him or her for support;
- (d) “sending State” means the Contracting Party to which the force belongs;
- (e) “receiving State” means the Contracting Party in the territory of which the force or civilian component is located, whether it be stationed there or passing in transit;
- (f) “military authorities of the sending State” means those authorities of a sending State who are empowered by its law to enforce the military law of that State with respect to members of its forces or civilian components;
- (g) “North Atlantic Council” means the Council established by Article 9 of the North Atlantic Treaty or any of its subsidiary bodies authorised to act on its behalf.

2. This Agreement shall apply to the authorities of political subdivisions of the Contracting Parties, within their territories to which the Agreement extends in accordance with Article XX, as it applies to the central authorities of those Contracting Parties, provided, however, that property owned by political sub-divisions shall not be considered to be property owned by a Contracting Party within the meaning of Article VIII.

ARTICLE II

It is the duty of a force and its civilian component and the members thereof as well as their dependents to respect the law of the

receiving State, and to abstain from any activity inconsistent with the spirit of the present Agreement, and, in particular, from any political activity in the receiving State. It is also the duty of the sending State to take necessary measures to that end.

ARTICLE III

1. On the conditions specified in paragraph 2 of this Article and subject to compliance with the formalities established by the receiving State relating to entry and departure of a force or the members thereof, such members shall be exempt from passport and visa regulations and immigration inspection on entering or leaving the territory of a receiving State. They shall also be exempt from the regulations of the receiving State on the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territories of the receiving State.

2. The following documents only will be required in respect of members of a force. They must be presented on demand:

- (a) personal identity card issued by the sending State showing names, date of birth, rank and number (if any), service, and photograph;
- (b) individual or collective movement order, in the language of the sending State and in the English and French languages, issued by an appropriate agency of the sending State or of the North Atlantic Treaty Organisation and certifying to the status of the individual or group as a member or members of a force and to the movement ordered. The receiving State may require a movement order to be countersigned by its appropriate representative.

3. Members of a civilian component and dependents shall be so described in their passports.

4. If a member of a force or of a civilian component leaves the employ of the sending State and is not repatriated, the authorities of the sending State shall immediately inform the authorities of the receiving State, giving such particulars as may be required. The authorities of the sending State shall similarly inform the authorities of the receiving State of any member who has absented himself for more than 21 days.

5. If the receiving State has requested the removal from its territory of a member of a force or civilian component or has made an expulsion order against an ex-member of a force or of a civilian component or against a dependent of a member or ex-member, the authorities of the sending State shall be responsible for receiving the person concerned within their own territory or otherwise disposing

of him outside the receiving State. This paragraph shall apply only to persons who are not nationals of the receiving State and have entered the receiving State as members of a force or civilian component or for the purpose of becoming such members, and to the dependents of such persons.

ARTICLE IV

The receiving State shall either

- (a) accept as valid, without a driving test or fee, the driving permit or licence or military driving permit issued by the sending State or a sub-division thereof to a member of a force or of a civilian component; or
- (b) issue its own driving permit or licence to any member of a force or civilian component who holds a driving permit or licence or military driving permit issued by the sending State or a sub-division thereof, provided that no driving test shall be required.

ARTICLE V

1. Members of a force shall normally wear uniform. Subject to any arrangement to the contrary between the authorities of the sending and receiving States, the wearing of civilian dress shall be on the same conditions as for members of the forces of the receiving State. Regularly constituted units or formations of a force shall be in uniform when crossing a frontier.

2. Service vehicles of a force or civilian component shall carry, in addition to their registration number, a distinctive nationality mark.

ARTICLE VI

Members of a force may possess and carry arms, on condition that they are authorised to do so by their orders. The authorities of the sending State shall give sympathetic consideration to requests from the receiving State concerning this matter.

ARTICLE VII

- 1. Subject to the provisions of this Article,
 - (a) the military authorities of the sending State shall have the right to exercise within the receiving State all criminal and disciplinary jurisdiction conferred on them by the law of the sending State over all persons subject to the military law of that State;
 - (b) the authorities of the receiving State shall have jurisdiction over the members of a force or civilian component and their

dependents with respect to offences committed within the territory of the receiving State and punishable by the law of that State.

2. (a) The military authorities of the sending State shall have the right to exercise exclusive jurisdiction over persons subject to the military law of that State with respect to offences, including offences relating to its security, punishable by the law of the sending State, but not by the law of the receiving State.
- (b) The authorities of the receiving State shall have the right to exercise exclusive jurisdiction over members of a force or civilian component and their dependents with respect to offences, including offences relating to the security of that State, punishable by its law but not by the law of the sending State.
- (c) For the purposes of this paragraph and of paragraph 3 of this Article a security offence against a State shall include
 - (i) treason against the State;
 - (ii) sabotage, espionage or violation of any law relating to official secrets of that State, or secrets relating to the national defence of that State.

3. In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:

- (a) The military authorities of the sending State shall have the primary right to exercise jurisdiction over a member of a force or of a civilian component in relation to
 - (i) offences solely against the property or security of that State, or offences solely against the person or property of another member of the force or civilian component of that State or of a dependent;
 - (ii) offences arising out of any act or omission done in the performance of official duty.
- (b) In the case of any other offence the authorities of the receiving State shall have the primary right to exercise jurisdiction.
- (c) If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other State considers such waiver to be of particular importance.

4. The foregoing provisions of this Article shall not imply any

right for the military authorities of the sending State to exercise jurisdiction over persons who are nationals of or ordinarily resident in the receiving State, unless they are members of the forces of the sending State.

5. (a) The authorities of the receiving and sending States shall assist each other in the arrest of members of a force or civilian component or their dependents in the territory of the receiving State and in handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.
- (b) The authorities of the receiving State shall notify promptly the military authorities of the sending State of the arrest of any member of a force or civilian component or a dependent.
- (c) The custody of an accused member of a force or civilian component over whom the receiving State is to exercise jurisdiction shall, if he is in the hands of the sending State, remain with that State until he is charged by the receiving State.
6. (a) The authorities of the receiving and sending States shall assist each other in the carrying out of all necessary investigations into offences, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offence. The handing over of such objects may, however, be made subject to their return within the time specified by the authority delivering them.
- (b) The authorities of the Contracting Parties shall notify one another of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.
7. (a) A death sentence shall not be carried out in the receiving State by the authorities of the sending State if the legislation of the receiving State does not provide for such punishment in a similar case.
- (b) The authorities of the receiving State shall give sympathetic consideration to a request from the authorities of the sending State for assistance in carrying out a sentence of imprisonment pronounced by the authorities of the sending State under the provisions of this Article within the territory of the receiving State.
8. Where an accused has been tried in accordance with the provisions of this Article by the authorities of one Contracting Party and has been acquitted, or has been convicted and is serving, or has

served, his sentence, or has been pardoned, he may not be tried again for the same offence within the same territory by the authorities of another Contracting Party. However, nothing in this paragraph shall prevent the military authorities of the sending State from trying a member of its force for any violation of rules of discipline arising from an act or omission which constituted an offence for which he was tried by the authorities of another Contracting Party.

9. Whenever a member of a force or civilian component is prosecuted under the jurisdiction of a receiving State he shall be entitled—

- (a) to a prompt and speedy trial;
- (b) to be informed, in advance of trial, of the specific charge or charges against them;
- (c) to be confronted with the witnesses against him;
- (d) to have compulsory process for obtaining witnesses in his favour, if within the jurisdiction of the receiving State;
- (e) to have legal representation of his own choice for his defence or to have free or assisted legal representation under the conditions prevailing for the time being in the receiving State;
- (f) if he considers it necessary, to have the services of a competent interpreter; and
- (g) to communicate with a representative of the Government of the sending State and, when the rules of the court permit, to have such a representative present at his trial.

10. (a) Regularly constituted military units or formations of a force shall have the right to police any camps, establishments or other premises which they occupy as the result of an agreement with the receiving State. The military police of the force may take all appropriate measures to ensure the maintenance of order and security on such premises.

- (b) Outside these premises, such military police shall be employed only subject to arrangements with the authorities of the receiving State and in liaison with those authorities, and in so far as such employment is necessary to maintain discipline and order among the members of the force.

11. Each Contracting Party shall seek such legislation as it deems necessary to ensure the adequate security and protection within its territory of installations, equipment, property, records and official information of other Contracting Parties, and the punishment of persons who may contravene laws enacted for that purpose.

ARTICLE VIII

1. Each Contracting Party waives all its claims against any other Contracting Party for damage to any property owned by it and used by its land, sea or air armed services, if such damage—

- (i) was caused by a member or an employee of the armed services of the other Contracting Party, provided that such damage was caused by such member or employee in the execution of his duties in connexion with the operation of the North Atlantic Treaty; or
- (ii) arose from the use of any vehicle, vessel or aircraft owned by the other Contracting Party and used by its armed services, provided either that the vehicle, vessel or aircraft causing the damage was being used in connexion with the operation of the North Atlantic Treaty, or that the damage was caused to property being so used.

Claims for maritime salvage by one Contracting Party against any other Contracting Party shall be waived, provided that the vessel or cargo salvaged was owned by a Contracting Party and being used by its armed services in connexion with the operation of the North Atlantic Treaty.

2. (a) In the case of damage caused or arising as stated in paragraph 1 to other property owned by a Contracting Party and located in its territory, the issue of the liability of any other Contracting Party shall be determined and the amount of damage shall be assessed, unless the Contracting Parties concerned agree otherwise, by a sole arbitrator selected in accordance with sub-paragraph (b) of this paragraph. The arbitrator shall also decide any counter-claims arising out of the same incident.
- (b) The arbitrator referred to in sub-paragraph (a) above shall be selected by agreement between the Contracting Parties concerned from amongst the nationals of the receiving State who hold or have held high judicial office. If the Contracting Parties concerned are unable, within a reasonable time, to agree upon the arbitrator, either may request the Chairman of the North Atlantic Council Deputies to select a person with the aforesaid qualifications.
- (c) Any decision taken by the arbitrator shall be binding and conclusive upon the Contracting Parties.
- (d) The amount of any compensation awarded by the arbitrator shall be distributed in accordance with the provisions of paragraph 5(e) (i), (ii) and (iii) of this Article.

- (e) The compensation of the arbitrator shall be fixed by agreement between the Contracting Parties concerned and shall, together with the necessary expenses incidental to the performance of his duties, be defrayed in equal proportions by them.
- (f) Nevertheless, each Contracting Party waives its claim in any such case where the damage is less than:—

Belgium	B.fr.	70,000	Luxembourg	L.fr.	70,000
Canada	\$	1,460	Netherlands	Fl.	5,320
Denmark	Kr.	9,670	Norway	Kr.	10,000
France	F.fr.	490,000	Portugal	Es.	40,250
Iceland	Kr.	22,800	United Kingdom	£	500
Italy	Li.	850,000	United States	\$	1,400

Any other Contracting Party whose property has been damaged in the same incident shall also waive its claim up to the above amount. In the case of considerable variation in the rates of exchange between these currencies the Contracting Parties shall agree on the appropriate adjustments of these amounts.

3. For the purposes of paragraphs 1 and 2 of this Article the expression “owned by a Contracting Party” in the case of a vessel includes a vessel on bare boat charter to that Contracting Party or requisitioned by it on bare boat terms or seized by it in prize (except to the extent that the risk of loss or liability is borne by some person other than such Contracting Party).

4. Each Contracting Party waives all claims against any other Contracting Party for injury or death suffered by any member of its armed services while such member was engaged in the performance of his official duties.

5. Claims (other than contractual claims and those to which paragraphs 6 or 7 of this Article apply) arising out of acts or omissions of members of a force or civilian component done in the performance of official duty, or out of any other act, omission or occurrence for which a force or civilian component is legally responsible, and causing damage in the territory of the receiving State to third parties, other than any of the Contracting Parties, shall be dealt with by the receiving State in accordance with the following provisions:—

- (a) Claims shall be filed, considered and settled or adjudicated in accordance with the laws and regulations of the receiving State with respect to claims arising from the activities of its own armed forces.
- (b) The receiving State may settle any such claims, and payment of the amount agreed upon or determined by adjudication shall be made by the receiving State in its currency.

- (c) Such payment, or the final adjudication of the competent tribunals of the receiving State denying payment, shall be binding and conclusive upon the Contracting Parties.
- (d) Every claim paid by the receiving State shall be communicated to the sending States concerned together with full particulars and a proposed distribution in conformity with sub-paragraphs (e) (i), (ii) and (iii) below. In default of a reply within two months, the proposed distribution shall be regarded as accepted.
- (e) The cost incurred in satisfying claims pursuant to the preceding sub-paragraphs and paragraph 2 of this Article shall be distributed between the Contracting Parties, as follows:—
 - (i) Where one sending State alone is responsible, the amount awarded or adjudged shall be distributed in the proportion of 25% chargeable to the receiving State and 75% chargeable to the sending State.
 - (ii) Where more than one State is responsible for the damage, the amount awarded or adjudged shall be distributed equally among them: however, if the receiving State is not one of the States responsible, its contribution shall be half that of each of the sending States.
 - (iii) Where the damage was caused by the armed services of the Contracting Parties and it is not possible to attribute it specifically to one or more of those armed services, the amount awarded or adjudged shall be distributed equally among the Contracting Parties concerned: however, if the receiving State is not one of the States by whose armed services the damage was caused, its contribution shall be half that of the sending States concerned.
 - (iv) Every half-year, a statement of the sums paid by the receiving State in the course of the half-yearly period in respect of every case regarding which the proposed distribution on a percentage basis has been accepted, shall be sent to the sending States concerned, together with a request for reimbursement. Such reimbursement shall be made within the shortest possible time, in the currency of the receiving State.
- (f) In cases where the application of the provisions of sub-paragraphs (b) and (e) of this paragraph would cause a Contracting Party serious hardship, it may request the North Atlantic Council to arrange a settlement of a different nature.
- (g) A member of a force or civilian component shall not be sub-

ject to any proceedings for the enforcement of any judgment given against him in the receiving State in a matter arising from the performance of his official duties.

- (h) Except in so far as sub-paragraph (e) of this paragraph applies to claims covered by paragraph 2 of this Article, the provisions of this paragraph shall not apply to any claim arising out of or in connexion with the navigation or operation of a ship or the loading, carriage, or discharge of a cargo, other than claims for death or personal injury to which paragraph 4 of this Article does not apply.

6. Claims against members of a force or civilian component arising out of tortious acts or omissions in the receiving State not done in the performance of official duty shall be dealt with in the following manner:

- (a) The authorities of the receiving State shall consider the claim and assess compensation to the claimant in a fair and just manner, taking into account all the circumstances of the case, including the conduct of the injured person, and shall prepare a report on the matter.
- (b) The report shall be delivered to the authorities of the sending State, who shall then decide without delay whether they will offer an *ex gratia* payment, and if so, of what amount.
- (c) If an offer of *ex gratia* payment is made, and accepted by the claimant in full satisfaction of his claim, the authorities of the sending State shall make the payment themselves and inform the authorities of the receiving State of their decision and of the sum paid.
- (d) Nothing in the paragraph shall affect the jurisdiction of the courts of the receiving State to entertain an action against a member of a force or of a civilian component unless and until there has been payment in full satisfaction of the claim.

7. Claims arising out of the unauthorised use of any vehicle of the armed services of a sending State shall be dealt with in accordance with paragraph 6 of this Article.

8. If a dispute arises as to whether a tortious act or omission of a member of a force or civilian component was done in the performance of official duty or as to whether the use of any vehicle of the armed services of a sending State was unauthorised, the question shall be submitted to an arbitrator appointed in accordance with paragraph 2(b) of this Article, whose decision on this point shall be final and conclusive.

9. The sending State shall not claim immunity from the jurisdiction of the courts of the receiving State for members of a force or

civilian component in respect of the civil jurisdiction of the courts of the receiving State except to the extent provided in paragraph 5(g) of this Article.

10. The authorities of the sending State and of the receiving State shall co-operate in the procurement of evidence for a fair hearing and disposal of claims in regard to which the Contracting Parties are concerned.

ARTICLE IX

1. Members of a force or of a civilian component and their dependents may purchase locally goods necessary for their own consumption, and such services as they need, under the same conditions as the nationals of the receiving State.

2. Goods which are required from local sources for the subsistence of a force or civilian component shall normally be purchased through the authorities which purchase such goods for the armed services of the receiving State. In order to avoid such purchases having any adverse effect on the economy of the receiving State, the competent authorities of that State shall indicate, when necessary, any articles the purchase of which should be restricted or forbidden.

3. Subject to agreements already in force or which may hereafter be made between the authorised representatives of the sending and receiving States, the authorities of the receiving State shall assume sole responsibility for making suitable arrangements to make available to a force or civilian component the buildings and grounds which it requires, as well as facilities and services connected therewith. These agreements and arrangements shall be, as far as possible, in accordance with the regulations governing the accommodation and billeting of similar personnel of the receiving State. In the absence of a specific contract to the contrary, the laws of the receiving State shall determine the rights and obligations arising out of the occupation or use of the buildings, grounds, facilities or services.

4. Local civilian labour requirements of a force or civilian component shall be satisfied in the same way as the comparable requirements of the receiving State and with the assistance of the authorities of the receiving State through the employment exchanges. The conditions of employment and work, in particular wages, supplementary payments and conditions for the protection of workers, shall be those laid down by the legislation of the receiving State. Such civilian workers employed by a force or civilian component shall not be regarded for any purpose as being members of that force or civilian component.

5. When a force or a civilian component has at the place where it is stationed inadequate medical or dental facilities, its members and

their dependents may receive medical and dental care, including hospitalisation, under the same conditions as comparable personnel of the receiving State.

6. The receiving State shall give the most favourable consideration to requests for the grant to members of a force or of a civilian component of travelling facilities and concessions with regard to fares. These facilities and concessions will be the subject of special arrangements to be made between the Governments concerned.

7. Subject to any general or particular financial arrangements between the Contracting Parties, payment in local currency for goods, accommodation and services furnished under paragraphs 2, 3, 4 and, if necessary, 5 and 6, of this Article shall be made promptly by the authorities of the force.

8. Neither a force, nor a civilian component, nor the members thereof, nor their dependents, shall by reason of this Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the receiving State.

ARTICLE X

1. Where the legal incidence of any form of taxation in the receiving State depends upon residence or domicile, periods during which a member of a force or civilian component is in the territory of that State by reason solely of his being a member of such force or civilian component shall not be considered as periods of residence therein, or as creating a change of residence or domicile, for the purposes of such taxation. Members of a force or civilian component shall be exempt from taxation in the receiving State on the salary and emoluments paid to them as such members by the sending State or on any tangible movable property the presence of which in the receiving State is due solely to their temporary presence there.

2. Nothing in this Article shall prevent taxation of a member of a force or civilian component with respect to any profitable enterprise, other than his employment as such member, in which he may engage in the receiving State, and, except as regards his salary and emoluments and the tangible movable property referred to in paragraph 1, nothing in this Article shall prevent taxation to which, even if regarded as having his residence or domicile outside the territory of the receiving State, such member is liable under the law of that State.

3. Nothing in this paragraph shall apply to "duty" as defined in paragraph 12 of Article XI.

4. For the purposes of this Article the term "member of a force" shall not include any person who is a national of the receiving State.

ARTICLE XI

1. Save as provided expressly to the contrary in this Agreement, members of a force and of a civilian component as well as their dependents shall be subject to the laws and regulations administered by the customs authorities of the receiving State. In particular the customs authorities of the receiving State shall have the right, under the general conditions laid down by the laws and regulations of the receiving State, to search members of a force or civilian component and their dependents and to examine their luggage and vehicles, and to seize articles pursuant to such laws and regulations.

2. (a) The temporary importation and the re-exportation of service vehicles of a force or civilian component under their own power shall be authorised free of duty on presentation of triptyque in the form shown in the Appendix to this Agreement.

(b) The temporary importation of such vehicles not under their own power shall be governed by paragraph 4 of this Article and the re-exportation thereof by paragraph 8.

(c) Service vehicles of a force or civilian component shall be exempt from any tax payable in respect of the use of vehicles on the roads.

3. Official documents under official seal shall not be subject to customs inspection. Couriers, whatever their status, carrying these documents must be in possession of an individual movement order, issued in accordance with paragraph 2(b) of Article III. This movement order shall show the number of despatches carried and certify that they contain only official documents.

4. A force may import free of duty the equipment for the force and reasonable quantities of provisions, supplies and other goods for the exclusive use of the force and, in cases where such use is permitted by the receiving State, its civilian component and dependents. This duty-free importation shall be subject to the deposit, at the customs office for the place of entry, together with such customs documents as shall be agreed, of a certificate in a form agreed between the receiving State and the sending State signed by a person authorized by the sending State for that purpose. The designation of the person authorised to sign the certificates as well as specimens of the signatures and stamps to be used, shall be sent to the customs administration of the receiving State.

5. A member of a force or civilian component may, at the time of his first arrival to take up service in the receiving State or at the time of the first arrival of any dependent to join him, import his

personal effects and furniture free of duty for the term of such service.

6. Members of a force or civilian component may import temporarily free of duty their private motor vehicles for the personal use of themselves and their dependents. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

7. Imports made by the authorities of a force other than for the exclusive use of that force and its civilian component, and imports, other than those dealt with in paragraphs 5 and 6 of this Article, effected by members of a force or civilian component are not, by reason of this Article, entitled to any exemption from duty or other conditions.

8. Goods which have been imported duty-free under paragraphs 2(b), 4, 5 or 6 above—

(a) may be re-exported freely, provided that, in the case of goods imported under paragraph 4, a certificate, issued in accordance with that paragraph, is presented to the customs office: the customs authorities, however, may verify that goods re-exported are as described in the certificate, if any, and have in fact been imported under the conditions of paragraphs 2(b), 4, 5 or 6 as the case may be;

(b) shall not normally be disposed of in the receiving State by way of either sale or gift: however, in particular cases such disposal may be authorised on conditions imposed by the authorities concerned of the receiving State (for instance on payment of duty and tax and compliance with the requirements of the controls of trade and exchange).

9. Goods purchased in the receiving State shall be exported therefrom only in accordance with the regulations in force in the receiving State.

10. Special arrangements for crossing frontiers shall be granted by the customs authorities to regularly constituted units or formations, provided that the customs authorities concerned have been duly notified in advance.

11. Special arrangements shall be made by the receiving State so that fuel, oil and lubricants for use in service vehicles, aircraft and vessels of a force or civilian component, may be delivered free of all duties and taxes.

12. In paragraphs 1–10 of this Article—

“duty” means customs duties and all other duties and taxes payable on importation or exportation, as the case may be, except dues and taxes which are no more than charges for services rendered;

“importation” includes withdrawal from customs warehouses or continuous customs custody, provided that the goods concerned have not been grown, produced or manufactured in the receiving State.

13. The provisions of this Article shall apply to the goods concerned not only when they are imported into or exported from the receiving State, but also when they are in transit through the territory of a Contracting Party, and for this purpose the expression “receiving State” in this Article shall be regarded as including any Contracting Party through whose territory the goods are passing in transit.

ARTICLE XII

1. The customs or fiscal authorities of the receiving State may, as a condition of the grant of any customs or fiscal exemption or concession provided for in this Agreement require such conditions to be observed as they may deem necessary to prevent abuse.

2. These authorities may refuse any exemption provided for by this Agreement in respect of the importation into the receiving State of articles grown, produced or manufactured in that State which have been exported therefrom without payment of, or upon repayment of, taxes or duties which would have been chargeable but for such exportation. Goods removed from a customs warehouse shall be deemed to be imported if they were regarded as having been exported by reason of being deposited in the warehouse.

ARTICLE XIII

1. In order to prevent offences against customs and fiscal laws and regulations, the authorities of the receiving and of the sending States shall assist each other in the conduct of enquiries and the collection of evidence.

2. The authorities of a force shall render all assistance within their power to ensure that articles liable to seizure by, or on behalf of, the customs or fiscal authorities of the receiving State are handed to those authorities.

3. The authorities of a force shall render all assistance within their power to ensure the payment of duties, taxes and penalties payable by members of the force or civilian component or their dependents.

4. Service vehicles and articles belonging to a force or to its civilian component, and not to a member of such force or civilian component, seized by the authorities of the receiving State in connexion with an offence against its customs or fiscal laws or regulations shall be handed over to the appropriate authorities of the force concerned.

ARTICLE XIV

1. A force, a civilian component and the members thereof, as well as their dependents, shall remain subject to the foreign exchange regulations of the sending State and shall also be subject to the regulations of the receiving State.

2. The foreign exchange authorities of the sending and the receiving States may issue special regulations applicable to a force or civilian component or the members thereof as well as to their dependents.

ARTICLE XV

1. Subject to paragraph 2 of this Article, this Agreement shall remain in force in the event of hostilities to which the North Atlantic Treaty applies, except that the provisions for settling claims in paragraphs 2 and 5 of Article VIII shall not apply to war damage, and that the provisions of the Agreement, and, in particular of Articles III and VII, shall immediately be reviewed by the Contracting Parties concerned, who may agree to such modifications as they may consider desirable regarding the application of the Agreement between them.

2. In the event of such hostilities, each of the Contracting Parties shall have the right, by giving 60 days notice to the other Contracting Parties, to suspend the application of any of the provisions of this Agreement so far as it is concerned. If this right is exercised, the Contracting Parties shall immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

ARTICLE XVI

All differences between the Contracting Parties relating to the interpretation or application of this Agreement shall be settled by negotiation between them without recourse to any outside jurisdiction. Except where express provision is made to the contrary in this Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council.

ARTICLE XVII

Any Contracting Party may at any time request the revision of any Article of this Agreement. The request shall be addressed to the North Atlantic Council.

ARTICLE XVIII

1. The present Agreement shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Government of the United States of America, which shall notify each signatory State of the date of deposit thereof.

2. Thirty days after four signatory States have deposited their instruments of ratification the present Agreement shall come into force between them. It shall come into force for each other signatory State thirty days after the deposit of its instrument of ratification.

3. After it has come into force, the present Agreement shall, subject to the approval of the North Atlantic Council and to such conditions as it may decide, be open to accession on behalf of any State which accedes to the North Atlantic Treaty. Accession shall be effected by the deposit of an instrument of accession with the Government of the United States of America, which shall notify each signatory and acceding State of the date of deposit thereof. In respect of any State on behalf of which an instrument of accession is deposited, the present Agreement shall come into force thirty days after the date of the deposit of such instrument.

ARTICLE XIX

1. The present Agreement may be denounced by any Contracting Party after the expiration of a period of four years from the date on which the Agreement comes into force.

2. The denunciation of the Agreement by any Contracting Party shall be effected by a written notification addressed by that Contracting Party to the Government of the United States of America, which shall notify all the other Contracting Parties of such notifications and the date of receipt thereof.

3. The denunciation shall take effect one year after the receipt of the notification by the Government of the United States of America. After the expiration of this period of one year, the Agreement shall cease to be in force as regards the Contracting Party which denounces it, but shall continue in force for the remaining Contracting Parties.

ARTICLE XX

1. Subject to the provisions of paragraphs 2 and 3 of this Article, the present Agreement shall apply only to the metropolitan territories of a Contracting Party.

2. Any State may, however, at the time of the deposit of its instrument of ratification or accession or at any time thereafter, declare

by notification given to the Government of the United States of America that the present Agreement shall extend (subject, if the State making the declaration considers it to be necessary, to the conclusion of a special agreement between that State and each of the sending States concerned), to all or any of the territories for whose international relations it is responsible in the North Atlantic Treaty area. The present Agreement shall then extend to the territory or territories named therein thirty days after the receipt by the Government of the United States of America of the notification, or thirty days after the conclusion of the special agreements if required, or when it has come into force under Article XVIII, whichever is the later.

3. A State which has made a declaration under paragraph 2 of this Article extending the present Agreement to any territory for whose international relations it is responsible may denounce the Agreement separately in respect of that territory in accordance with the provisions of Article XIX.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed the present Agreement.

Done in London this day of , in the English and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

[Here follows the list of Parties to the North Atlantic Treaty, as expected signatories of the present Agreement.]

MS-D(51) 31

Icelandic-United States Defense Agreement—Annex on Status of United States Personnel and Property (25 May 1951)¹

Annex on the Status of United States Personnel and Property

ARTICLE 1

In this annex, the expression "United States Forces" includes personnel belonging to the armed services of the United States and ac-

¹ The Annex on the Status of United States Personnel and Property was signed in Reykjavik on 8 May 1951: 2 UST 1533, TIAS 2295, 205 UNTS 180. The Icelandic-United States Defense Agreement, to which it is annexed, was signed in Reykjavik on 5 May 1951: 2 UST 1195, TIAS 2266, 205 UNTS 173.

companying civilian personnel who are in the employ of such services and are not nationals of nor ordinarily resident in Iceland, all such personnel being in the territory of Iceland in connection with operations under this Agreement.

ARTICLE 2

1. (a) The United States military courts will on no occasion have jurisdiction in Iceland over nationals of Iceland or other persons who are not subject to the military laws of the United States.
- (b) It is the duty of members of the United States forces and their dependents in Iceland to respect the laws of Iceland and to abstain from any activity inconsistent with the spirit of this Agreement, and, in particular from any political activity in Iceland. The United States will take appropriate measures to that end.
2. Subject to the provisions of this Article,
 - (a) the military authorities of the United States shall have the right to exercise within Iceland all jurisdiction and control conferred on them by the laws of the United States over all persons subject to the military law of the United States;
 - (b) the authorities of Iceland shall have jurisdiction over the members of the United States forces with respect to offenses committed within Iceland and punishable by the law of Iceland.
3. (a) The military authorities of the United States shall have the right to exercise exclusive jurisdiction over persons subject to the military law of the United States with respect to offenses relating to its security, but not to that of Iceland, and to all acts punishable by the law of the United States, but not by the law of Iceland.
- (b) The authorities of Iceland shall have the right to exercise exclusive jurisdiction over members of the United States forces with respect to offenses relating to the security of Iceland, but not to the security of the United States, and to all acts punishable by the law of Iceland, but not by the law of the United States.
- (c) A security offense against Iceland or the United States shall include:
 1. Treason;
 2. Sabotage, espionage or violation of any law relating to official secrets of Iceland or the United States, or secrets relating to the national defense of Iceland or the United States.

4. In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:

(a) The military authorities of the United States shall have the primary right to exercise jurisdiction over a member of the United States forces in relation to

1. offenses solely against the property of the United States or offenses solely against the person or property of another member of the United States forces or of a dependent of a member of such forces.

2. offenses arising out of any act done in the performance of official duty.

(b) In the case of any other offense the authorities of Iceland shall have the primary right to exercise jurisdiction.

(c) If the United States or Iceland, whichever has the primary right, decides not to exercise jurisdiction, it shall notify the authorities of the United States or Iceland, as the case may be, as soon as practicable. The authorities of the United States or Iceland, whichever has the primary right, shall give sympathetic consideration to a request from the authorities of the United States or Iceland, as the case may be, for a waiver of its rights in cases where the authorities of the other country consider such waiver to be of particular importance.

5. A death sentence shall not be carried out in Iceland by the authorities of the United States.

6. (a) The authorities of the United States and Iceland shall assist each other in the arrest of members of the United States forces and their dependents who commit offenses in Iceland and in handing them over to the authorities which are to exercise jurisdiction in accordance with the above provisions.

(b) The authorities of Iceland shall notify promptly the military authorities of the United States of the arrest in Iceland of any members of the United States forces or of their dependents.

(c) The custody of an accused over whom Iceland is to exercise jurisdiction shall, if he is in the hands of the authorities of the United States, remain in the hands of such authorities until he is charged by Iceland.

7. (a) If a member of the United States forces is accused of an offense the appropriate authorities of the United States and Iceland will render mutual assistance in the necessary investigation into the offense and trial of the offender.

- (b) If the case is one within the jurisdiction of the United States, the authorities of Iceland will themselves carry out the necessary arrangements to secure the presence of and obtain evidence from Icelandic nationals and other persons in Iceland, except from members of the United States forces and their dependents, outside the agreed areas. In cases where it is necessary under the laws of the United States to obtain themselves information from Icelandic nationals, the Icelandic authorities will make all possible arrangements to secure the attendance of such nationals for interrogation in the presence of Icelandic authorities at places designated by them.

The military authorities will, in a similar manner, carry out the collection of evidence from members of the United States forces and their dependents in the case of an offense within the jurisdiction of the Icelandic authorities.

- (c) The authorities of the United States and Iceland shall notify one another of the results of all investigations and trials in cases where there are concurrent rights to exercise jurisdiction.

8. Where a member of the United States force or a dependent of a member thereof has been tried by the authorities of the United States and has been acquitted, or has been convicted and is serving or has served his sentence, he may not be tried again for the same offense by the authorities of Iceland.

9. Whenever a member of the United States force or a dependent of a member thereof is prosecuted under the jurisdiction of Iceland, he shall be entitled:

- (a) to a prompt and speedy trial;
- (b) to be informed in advance of trial of the specific charge or charges made against him;
- (c) to be confronted with the witnesses against him;
- (d) to have compulsory process for obtaining witnesses in his favor, if within the jurisdiction of Iceland;
- (e) to defense by a qualified advocate or counsel of his own choice, or, failing such choice, appointed to conduct his defense;
- (f) if he considers it necessary, to have the services of a competent interpreter; and
- (g) to communicate with a representative of his Government and, when the rules of the court permit, to have such a representative present at his trial.

10. The United States forces shall have the right to police the agreed areas and to take all appropriate measures to insure the maintenance of discipline, order and security in such areas. Outside the agreed areas, military members of the United States forces shall be employed in police duties subject to arrangements with the authorities of Iceland and jointly with those authorities, and insofar as such employment is necessary in order to maintain discipline and order among the members of the United States forces and the dependents of members thereof.

The Icelandic authorities with whom members of the United States forces may be so employed shall have paramount authority with respect to the person or property of Icelandic nationals and other persons of non-Icelandic nationality, except members of the United States forces and their dependents and non-Icelandic employees of contractors of the United States, involved in any matter concerning the maintenance of order and discipline referred to above outside the agreed areas.

ARTICLE 3

1. Iceland shall either:

- (a) accept as valid, without driving test or fee, the driving permit or license or military driving permit issued by the United States or a sub-division thereof to a member of the United States forces or his dependents; or
- (b) issue its own driving permit or license without test or fee to a member of the United States forces or his dependents who hold a driving permit or license issued by the United States or a sub-division thereof.

2. The United States authorities, in cooperation with Icelandic authorities, will issue appropriate instructions to members of the United States forces and their dependents fully informing them of the Icelandic traffic laws and regulations and requiring strict compliance therewith.

ARTICLE 4

1. Military members of the United States forces shall normally wear a uniform.

2. Service vehicles of the United States forces shall carry, in addition to the registration number, a distinctive nationality mark.

3. The United States authorities will deliver to the appropriate Icelandic authorities a list of all vehicles, the registration numbers and the names of the owners thereof.

ARTICLE 5

United States forces in Iceland may carry arms as required in the performance of official duties within the agreed areas. United States forces may carry arms outside the agreed areas in Iceland only in the performance of official duties or in case of military necessity, unless otherwise agreed by the appropriate authorities of Iceland.

ARTICLE 6

1. Members of the United States forces and their dependents may purchase locally goods necessary for their own consumption and such services as they need under the same conditions as nationals of Iceland.

2. Goods purchased locally which are required for the subsistence of the United States forces will normally be purchased through such agency of the Government of Iceland as may be designated by Iceland in order to avoid such purchase having an adverse effect on the economy of Iceland.

3. In regard to paragraphs 1, and 2, above, the competent authorities of Iceland will indicate when necessary any articles the purchase of which should be restricted or forbidden, and the United States authorities will give due consideration to such requests.

4. The United States desires to employ qualified Icelandic civilians to the maximum extent practicable in connection with activities under this Agreement. To the extent that Iceland shall consent to the employment of Icelandic civilians by the United States such employment shall be effected with the assistance of and through a representative or representatives designated by Iceland. The conditions of employment and work, in particular wages, supplementary payments and conditions for the protection of workers shall be those laid down by Icelandic law and practice.

5. The United States and Iceland will cooperate in suppressing and preventing any illegal activities and in preventing any undue interference with the Icelandic economy.

ARTICLE 7

1. The temporary presence in Iceland of a member of the United States forces or of any dependent of such member, or of any non-Icelandic national employed in Iceland in connection with the operation under this Agreement and present in Iceland only by reason of such employment shall constitute neither residence nor domicile therein and shall not of itself subject him to taxation in Iceland,

either on his income or on his property the presence of which in Iceland is due solely to his temporary presence there, nor, in the event of his death, shall it subject his estate to a levy of death duties.

2. No national of the United States or corporation organized under the laws of the United States, resident in the United States, shall be liable to pay Icelandic income tax in respect of any income derived under a contract with the United States in connection with operations under this Agreement.

3. No tax or other charge of any nature shall be levied or assessed on material, equipment, supplies, or goods, including personal effects, household goods, privately owned automobiles and clothing which has been brought into Iceland in connection with operations under this Agreement. No such tax or charge shall be levied or assessed on property procured in Iceland by United States authorities for the use of the United States or its agents or for the use of personnel present in Iceland only in connection with operations under this Agreement.

ARTICLE 8

1. Save as provided expressly to the contrary in this Agreement, members of the United States forces as well as their dependents shall be subject to the laws and regulations administered by the customs authorities of Iceland. In particular the customs authorities of Iceland shall have the right, under the general conditions laid down by the laws and regulations of Iceland, to search members of the United States forces and their dependents and non-Icelandic nationals who are contractors or employees of a contractor of the United States and to examine their luggage and vehicles and to seize articles pursuant to such laws and regulations.

2. Official documents under official seal shall not be subject to customs inspection. Couriers, whatever their status, carrying these documents must be in possession of an individual movement order. This movement order shall show the number of dispatches carried and certify that they contain only official documents.

3. The authorities of the United States forces may import free of duty the equipment for their forces and reasonable quantities of provisions, supplies and other goods for the exclusive use of the forces and their dependents and for non-Icelandic nationals who are contractors or employees of a contractor of the United States. This duty-free importation shall be subject to the deposit, at the customs office for the place of entry, together with the customs documents, of a certificate signed by an official of the United States forces authorized for that purpose. The list of the officials authorized

to sign the certificates, as well as specimens of their signatures and the stamps used, shall be sent to the customs administration of Iceland.

4. Members of the United States forces and their dependents may at the time of first arrival to take up service in Iceland import free of duty for the term of such service their personal effects and furniture.

5. Members of the United States forces and their dependents may import temporarily free of duty their private motor vehicles for their personal use.

6. Imports, other than those dealt with in paragraphs 4 and 5 of this Article, effected by members of the United States forces and their dependents including shipments through United States Post Offices are not, by reason of this Article, entitled to any exemption from duty or other conditions.

7. Goods which have been imported duty-free under paragraphs 3, 4 or 5 above:

(a) may be re-exported freely, provided that, in the case of goods imported under paragraph 3, a certificate, issued in accordance with that paragraph, is presented to the customs office. The customs authorities, however, may verify that goods re-exported are as described in the certificate, if any, and have in fact been imported under the conditions of paragraph 3, 4 or 5 as the case may be.

(b) shall not be disposed of in Iceland by way of sale, gift or barter. However, in particular cases such disposal may be authorized on conditions imposed by the customs authorities (for instance, on payment of duty and tax and compliance with the requirements of the controls of trade and exchange). The United States authorities will prescribe and enforce to the extent possible regulations designated to prevent the sale or supply to individual members of the United States forces and their dependents and non-Icelandic nationals who are employees of a contractor of the United States of quantities of goods imported into Iceland by the United States authorities by any means, free of charge, which would be in excess of the personal requirements of such personnel and which, in consultation with Icelandic authorities, are determined to be most likely to become items of gift, barter or sale in Iceland.

8. Goods purchased in Iceland shall be exported therefrom only in accordance with the regulations in force in Iceland.

9. Special arrangements shall be made by Iceland so that fuel,

oil and lubricants for use in service vehicles, aircraft and vessels of the United States forces and non-Icelandic contractors of the United States, may be delivered free of all duties and taxes.

10. In paragraphs 1-8 of this Article "duty" means customs duties and all other duties and taxes payable on importation or exportation, as the case may be.

11. The customs or fiscal authorities of Iceland may, as a condition of the grant of any customs or fiscal exemption or concession provided for in this Agreement, require such conditions to be observed as they may deem necessary to prevent abuse.

ARTICLE 9

1. In order to prevent offenses against customs and fiscal laws and regulations, the customs and fiscal authorities of the United States and Iceland shall assist each other in the conduct of inquiries and the collection of evidence.

2. The authorities of the United States forces shall render all assistance within their power to insure that articles liable to seizure by, or on behalf of, the customs or fiscal authorities of Iceland are handed to those authorities.

3. The authorities of the United States forces shall render all assistance within their power to insure the payment of duties, taxes and penalties payable by members of the United States forces or their dependents.

4. Service vehicles and articles belonging to the United States forces seized by the authorities of Iceland in connection with an offense against its customs or fiscal laws or regulations shall be handed over to the appropriate authorities of the United States forces.

ARTICLE 10

The United States forces and their members and dependents shall comply with the foreign exchange regulations of Iceland. Special arrangements shall be entered into between the appropriate authorities of Iceland and the United States to obviate the use of United States currency in paying personnel and to permit United States forces to acquire Icelandic currency at official rates of exchange and to convert such currency in reasonable amounts on leaving Iceland.

ARTICLE 11

The Government of Iceland will extend to the forces of any Government signatory to the North Atlantic Treaty, when such

forces are stationed in Iceland, the same privileges extended to the United States forces by the preceding Articles of this Annex upon the request of the Government concerned.

ARTICLE 12

1. (a) The United States waives all claims against the Government of Iceland for damage to any property owned by it and used by the United States forces and for injury to or death of members of the United States forces caused by an employee of the Government of Iceland.
- (b) The Government of Iceland waives all claims against the United States for damage to property owned by it in any of the agreed areas and will make compensation and waive all claims against the United States for injury or death of an employee of the Government of Iceland occurring in such area while such employee is therein by reason of his duties, as determined by representatives of the United States and Iceland to be appointed by each, when such damage, injury or death is caused by a member of the United States forces. The Government of Iceland also waives all claims for damage to any property owned by it and for injury to or death of an employee of the Government of Iceland occurring outside any of the agreed areas caused by a member of the United States forces when it is determined by representatives of the United States and Iceland, to be appointed by each, that such property or employee was, at the time of said damage, injury or death, being utilized or employed in any respect with carrying out the provisions of this Agreement.
- (c) The United States and Iceland waive all their claims against each other for damage to a vessel owned by the United States or Iceland while such vessel is being used in connection with the operation of this Agreement, wherever such damage shall occur, and whether it is caused by a member of the United States forces or by an employee of the Government of Iceland. Claims for maritime salvage by the United States or Iceland shall be waived, provided that the vessel or cargo salvaged was owned by the United States or Iceland, as the case may be, in connection with the operation of this Agreement.
- (d) For the purpose of this paragraph the expressions "owned by the United States" or "owned by Iceland" or "owned

by the United States or Iceland" include a vessel on bare boat charter to the United States or Iceland, as the case may be, or requisitioned by either Government on bare boat terms or otherwise in the possession of the United States or Iceland (except to the extent that the risk of loss or liability is borne by some person other than the United States or Iceland or its insurer).

2. Claims (other than contractual claims) arising out of acts done by members of the United States forces and causing damage to, or loss or destruction of, the property of persons or bodies in Iceland or the injury or death of individuals therein except as provided in the preceding paragraph, shall be settled by Iceland in accordance with the following provisions:

- (a) Claims shall be filed, considered, and settled or adjusted in accordance with the laws and regulations of Iceland with respect to claims arising from acts of its own employees.
- (b) Iceland may settle any such claims, and payment of the amount agreed upon or determined by adjudication shall be made by Iceland in its currency.
- (c) Such payment, or the final adjudication of the competent tribunals of Iceland denying payment, shall be binding and conclusive upon the United States and Iceland.
- (d) Every claim paid by Iceland shall be communicated to the United States military authorities together with full particulars.
- (e) The cost incurred in satisfying claims pursuant to the preceding sub-paragraph shall be distributed between the United States and Iceland as follows:
 - (1) Where the United States alone is responsible, the amount awarded or adjudged shall be distributed in the proportion of 15% chargeable to Iceland and 85% chargeable to the United States.
 - (2) Where members of the United States forces and nationals of Iceland contribute to the damage, the amount awarded or adjudged shall be distributed equally between the United States and Iceland.
 - (3) Every half-year, a statement of the sums paid by Iceland in the course of the half-yearly period in respect of every case shall be sent to the United States together with a request for reimbursement. Such reimbursement shall be made within the shortest possible time, in the currency of Iceland.

(f) A member of the United States forces shall not be subject to any suit with respect to claims arising by reason of an act done which is within the purview of this paragraph.

3. Claims presented by a national of any country at war with the United States or by an ally of such enemy country and claims resulting from action by the enemy or resulting directly or indirectly from any act by the United States forces engaged in combat are not considered to be within the provisions of this Article.

4. The military authorities of the United States and the appropriate officials of Iceland shall cooperate in the procurement of evidence for a fair hearing and disposal of claims in regard to which the United States and Iceland are concerned.

5. The United States undertakes to procure the legislation necessary to implement its responsibilities as set forth in this Article.

D-D(51) 138

Status of Forces Agreement—Final Draft (1 June 1951)¹

[This final draft is identical with the draft Agreement contained in D-D(51) 127, with the exception of the paragraphs or parts of paragraphs given below.]

* * * * *

ARTICLE I

1. In this Agreement the expression—

(a) “force” means the personnel belonging to the land, sea or air armed services of one Contracting Party when in the territory of another Contracting Party in the North Atlantic Treaty area in connexion with their official duties, provided that the two Contracting Parties concerned may agree that certain individuals, units or formations shall not be regarded as constituting or included in a “force” for the purposes of the present Agreement;

* * * * *

2. This Agreement shall apply to the authorities of political subdivisions of the Contracting Parties, within their territories to

¹ Reference: D-D(51) 127 (7 May 1951) for previous text. A report on the present text is found in D-D(51) 146 (5 June 1951), with subsequent discussion in D-R(51) 45 (6 June 1951). Signature of the text as finally approved is recorded in D-R(51) 48 (19 June 1951).

which the Agreement applies or extends in accordance with Article XX, as it applies to the central authorities of those Contracting Parties, provided, however, that property owned by political subdivisions shall not be considered to be property owned by a Contracting Party within the meaning of Article VIII.

* * * * *

ARTICLE VII

* * * * *

9. Whenever a member of a force or civilian component or a dependent is prosecuted under the jurisdiction of a receiving State he shall be entitled—

* * * * *

(d) to have compulsory process for obtaining witnesses in his favour, if they are within the jurisdiction of the receiving State;

* * * * *

ARTICLE VIII

1. Each Contracting Party waives all its claims against any other Contracting Party for damage to any property owned by it and used by its land, sea or air armed services, if such damage—

(i) was caused by a member or an employee of the armed services of the other Contracting Party in the execution of his duties in connexion with the operation of the North Atlantic Treaty; or

* * * * *

2. * * * * *

(b) The arbitrator referred to in sub-paragraph (a) above shall be selected by agreement between the Contracting Parties concerned from amongst the nationals of the receiving State who hold or have held high judicial office. If the Contracting Parties concerned are unable, within two months, to agree upon the arbitrator, either may request the Chairman

of the North Atlantic Council Deputies to select a person with the aforesaid qualifications.

* * * * *

5. * * * * *

(c) Such payment, whether made pursuant to a settlement or to adjudication of the case by a competent tribunal of the receiving State, or the final adjudication by such a tribunal denying payment, shall be binding and conclusive upon the Contracting Parties.

* * * * *

7. Claims arising out of the unauthorised use of any vehicle of the armed services of a sending State shall be dealt with in accordance with paragraph 6 of this Article, except in so far as the force or civilian component is legally responsible.

* * * * *

D-D(51) 146

Status of Forces Agreement—Report by the Chairman of the Working Group concerning the Final Draft (5 June 1951)¹

1. At their meeting on 24 May 1951, the Council Deputies agreed that certain points on the draft Agreement on the Status of NATO Forces² should be referred back to the Working Group for consideration, and that the Working Group should be requested to draw up a final text.

2. I have the honor to report that the Working Group have considered the points referred to them, and their conclusions are set out below. A revised text of the Agreement³ has been prepared in accordance with their conclusions and submitted separately.

ARTICLE I, PAR. 1(a)

3. The word “individuals” has been added before “units or formations” to make it possible, as proposed by the United States Govern-

¹ The paragraph numbers have been added by the editor.

² D-D(51) 127 (7 May 1951).

³ D-D(51) 137 (1 June 1951)—the final text, on which the present document is reporting.

ment, to exclude from a "force," for the purposes of the Agreement, such persons as military attachés of diplomatic missions.

ARTICLE VIII, PAR. 5

4. After full discussion, the Italian Representative withdrew the proposal of his Government, which was to amend sub-paragraphs (b), (d) and (e) (iv) so as to leave the receiving State discretion regarding the payment of claims under this paragraph. It was pointed out that the paragraph, as drafted in D-D(51) 127, represented a careful balance of interests. The Working Group felt that the Italian Government's proposal would upset this balance and render the procedure prescribed in the paragraph difficult to operate. It was also considered to be essential from the point of view of maintaining good relations between the force and the local population that claims should be paid promptly.

5. The Luxembourg Representative withdrew the proposal of his Government to extend the application of the principle embodied in paragraph 5(f) to all the provisions of Article VIII regarding the incidence of financial responsibility. This was in response to an objection that paragraph 5(f) already represented a concession made reluctantly by some Governments and that an extension of it would be difficult to accept.

ARTICLE IX, PAR. 7

6. The Working Group discussed the Netherlands Government's proposed reservation to the effect that payments made in wartime in application of Article IX, paragraph 7, and other financial provisions of the Agreement should be regarded as provisional and should be reviewed at the end of hostilities with a view to adjustment. The Working Group considered that the financial arrangements established by the Agreement would in any event be the subject of review, in accordance with paragraph 1 of Article XV, at the outbreak of hostilities. They also recognized that the application of the financial provisions of the Agreement might, in time of hostilities, create a situation as a result of which some Contracting Parties might request review in bilateral negotiations after the conclusion of the hostilities with a view to preventing undue economic and foreign exchange difficulties. However, the question whether any adjustments were necessary and the principle on which adjustments, if necessary, should be made, would depend on circumstances, and no agreement, express or implied, with respect thereto could be made at the present time.

7. The Working Group recommends that the Council Deputies should confirm this understanding of the position and that a statement to that effect should be included in the Summary Records.

Points of Form

8. The following amendments of form were agreed by the Working Group. Their object is merely to clarify the intention of the provisions concerned:

Article I, paragraph 2. Add "applies or" before "extends."

Article VII, paragraph 9. In line 1, add "or a dependent" after "civilian component"; and in sub-paragraph (d), insert "they are" before "within the jurisdiction."

Article VIII, paragraph 1(i). Delete the words "provided that such damage was caused by such member or employee."

Article VIII, paragraph 2(b). For "within a reasonable time," substitute "within two months."

Article VIII, paragraph 5(c). Amend the first two lines to read: "Such payment, whether made pursuant to a settlement or to adjudication of the case by a competent tribunal of the receiving State, or the final adjudication by such a tribunal denying payment, . . ."

Article VIII, paragraph 7. Add at the end of the paragraph: "except in so far as the force or civilian component is legally responsible." Where the force or civilian component is legally responsible, paragraph 5 should apply.

Comments of the Canadian Government

9. Certain comments of the Canadian Government were discussed by the Working Group and are recorded in the minutes. These did not result in any amendment of the Agreement.

Provisional Implementation

10. A draft Resolution on provisional implementation was agreed by the Working Group, subject to some drafting amendments. A revised draft is attached hereto as Annex A.⁴

⁴ Annex A is identical with the Resolution as found in D-R(51) 48, par. 5 (19 June 1951), and has therefore been omitted.

BENELUX Declaration

11. The Belgian Representative informed the Working Group that at the time of signature of the Agreement Belgium, Luxembourg and the Netherlands proposed to make a Declaration in the attached form (Annex B).⁵ This Declaration would not affect other countries. The Working Group took note of this document.

Position of Iceland

12. A number of Representatives expressed the view that both for political and for practical reasons it was desirable for Iceland to become a party to the multilateral Agreement, notwithstanding the similarity of the terms of her bilateral Agreement with the United States⁶ and her readiness to apply the provisions of the bilateral Agreement to other NATO countries. Not only was it desirable politically for the NATO powers to demonstrate their solidarity by all signing the multilateral Agreement, but also the differences of detail between the multilateral Agreement and the bilateral Agreement might cause administrative inconvenience if the latter were applied to other NATO Powers. The Representative of Iceland later informed the Chairman of the Working Group that his Government were prepared to sign the multilateral Agreement.

MS-D(51) 34

Agreement on the Status of NATO, National Representatives and International Staff—Revised Draft of Article 19 (19 July 1951)¹

Note by the Chairman

Members of the Working Group will recall that at the meeting on 27 June 1951, at which the draft Agreement on the Status of NATO, National Representatives and International Staff was discussed,² we were unable to reach final agreement on the Article concerning taxation of the salaries and emoluments of officials. After the meeting, several members intimated to me that in their view it was undesirable to submit the draft Agreement to the Deputies until

⁵ Annex B is identical with the Declaration as found in D-R(51) 48, par. 4 (19 June 1951), and has therefore been omitted.

⁶ For text of this Agreement, see MS-D(51) 31 (25 May 1951).

¹ Reference: MS-D(51) 29(2R) (15 June 1951).

² See MS-R(51) 25 (27 June 1951).

a greater measure of agreement had been reached on the terms of this Article.

Later the French Delegation approached the United States and United Kingdom Delegations informally with suggestions for amendment of this Article. Subsequent informal discussion between the three Delegations has resulted in the annexed draft which is acceptable to all of them.

It seemed to me that, in all the circumstances, the best course was to withhold my Report from the Deputies until an agreed Article had been achieved, and I hope that members of the Working Group will not take objection to this departure from the procedure agreed at the meeting.

I would now invite you to consider the annexed draft Article. It represents a finely balanced compromise to meet a particularly delicate situation and every word has been most carefully weighed. I very much hope, therefore, that it will be found to be generally acceptable. All members of the Working Group are, I think, sufficiently familiar with the problems involved to make it unnecessary to discuss them in this paper, but if any member would like some further explanation I am at his disposal.

I would propose to incorporate the new Article in the draft Agreement and submit the Agreement so amended to the Deputies next week unless any member of the Working Group notifies the NATO Secretariat before Tuesday, 24 July, that he objects. In this way, it may be possible to avoid a further meeting of the Working Group before the Agreement is considered by the Deputies.

It will, of course, be open to any of the Deputies to propose amendments to this or any other Article when the Agreement is discussed by them, but if any member of the Working Group feels that the new Article is likely to be unacceptable to his Government and that it is desirable to have another meeting of the Working Group to thrash the matter out, I will see whether this can be arranged.

When the Deputies receive my Report it is expected that they will refer it to Governments for final consideration and discuss it in detail a fortnight or three weeks later.

DRAFT ARTICLE 19

Officials of the Organisation agreed under Article 17 shall be exempt from taxation on the salaries and emoluments paid to them by the Organisation in their capacity as such officials. Any Member State may, however, conclude an arrangement with the Council act-

ing on behalf of the Organisation whereby such Member State will employ and assign to the Organisation all of its nationals (except, if such Member State so desires, any not ordinarily resident within its territory) who are to serve on the international staff of the Organisation and pay the salaries and emoluments of such persons from its own funds at a scale fixed by it. The salaries and emoluments so paid may be taxed by such Member State but shall be exempt from taxation by any other Member State. If such an arrangement is entered into by any Member State and is subsequently modified or terminated, Member States shall no longer be bound under the first sentence of this Article to exempt from taxation the salaries and emoluments paid to their nationals.

D-D(51) 178

Agreement on the Status of NATO, National Representatives and International Staff—Final Draft and Report by the Chairman of the Working Group (24 July 1951)¹

Report by Chairman of the Working Group

1. I have the honor to submit herewith the draft of an Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff.²

2. The draft follows generally the form of agreement which, beginning with the General Convention on Privileges and Immunities of the United Nations in 1946,³ has been adopted, with more or less minor variations, to define the privileges and immunities of practically all important international organizations. Certain departures have however been made from the precedents in order to meet the peculiar requirements of NATO.

3. NATO differs from other international organizations in that it has subsidiary bodies in permanent session in several countries. Other organizations generally only have a permanent seat in the country where they have their headquarters, and it has been usual,

¹ Paragraph numbers in the Report have been added by the editor.

² For previous texts of the Agreement, see MS-D(51) 29(2R) (15 June 1951); for Article 19: MS-D(51) 34 (19 July 1951). For discussion of the final draft in the above document: D-R(51) 58 (25 July 1951); D-R(51) 62-63 (21-22 August 1951); MS-R(51) 26 (24 August 1951); D-R(51) 66 (14 September 1951). For signature of the draft Agreement as finally approved: D-R(51) 67 (20 September 1951).

³ 1 UNTS 15 (13 February 1946).

in addition to the General Agreement defining the privileges and immunities which all member States are expected to accord, to have a special Headquarters Agreement between the organization and the member State in whose territory the headquarters are located. This Headquarters Agreement covers the special requirements of the organization in the country where it has its headquarters and, in particular, grants to any national representatives stationed permanently in that country a rather more liberal scale of privileges than is given to national representatives under the General Agreement. Since NATO has permanent bodies in several countries, it has been found convenient to include in the General Agreement provisions mainly concerning national representatives, which are generally found in a Headquarters Agreement.

4. Part I contains certain general provisions. In particular, it defines those subsidiary bodies of the Organization to which the Agreement applies. These include any organ, committee or service established by the Council or under its authority (Article 1(c)) except military headquarters, e.g., SHAPE, and, unless the Council decides otherwise, any other military body (Article 2). In this connection the position of the Standing Group was considered by the Working Group. Opinion in the Working Group was divided as to whether it should be covered by this Agreement or by a separate Agreement, similar to that envisaged for SHAPE, based on the Status of Forces Agreement. As the draft stands, the Standing Group, being a military body, would be excluded from the application of the Agreement by Article 2, *unless* the Council (which by definition includes the Council Deputies) decides otherwise.

5. Part II deals with the status of the Organization itself. Article 4 gives it juridical personality. This means that when subsidiary bodies to which the Agreement applies wish to conclude contracts, acquire property, etc., they will do so in the name of the Organization. The immunities and privileges provided by Articles 5-11 are all normally accorded to international organizations by agreements of this type. An article generally found in such agreements concerning the treatment of official communications in the matter of priorities, rates and taxes has been omitted. A number of Governments object to it either as being impracticable in their territories or contrary to their national policy, and the International Telecommunications Union has raised objection to provisions of this kind as being contrary to the International Telecommunications Convention.

6. Part III covers national representatives and their official staffs

and follows approximately the pattern established for the United Nations in New York. In general, those permanently stationed in another member State down to the equivalent of third secretary level will enjoy the immunities and privileges accorded to diplomatic representatives and their official staffs of comparable rank (Article 12); those temporarily in another member State for NATO purposes will receive the somewhat lower but nevertheless adequate scale of privileges and immunities accorded to similar personnel under the agreements relating to other international organizations (Article 13); and official clerical staff not otherwise covered will receive a slightly lower scale still (Article 14).

7. Part IV deals with the international staff of the Organization and experts on missions for the Organization. The Article which gave rise to the most difficulty was Article 19, which concerns taxation on the salaries and emoluments of officials. The rather complicated formula evolved has been very carefully drawn to provide exemption for members of the staff who are paid directly by the Organization at the normal rates, but to enable those States which arrange to pay their nationals employed on the staff at higher rates out of their own budgets to charge income tax on the salaries and emoluments so paid.

8. Part V concerns the settlement of disputes. Parts VI and VII contain formal provisions. The Agreement will be subject to ratification and will come into force when six States have ratified. It may be denounced by giving one year's notice.

9. The attention of the Deputies is drawn to the fact that the Summary Records of the meetings of the Working Group record a number of statements regarding the interpretation and application of the text of the Agreement.

10. The Working Group propose that at the time of signature of the Agreement the Deputies should adopt a Resolution as was done in the case of the Status of Forces Agreement, recommending member States to give effect to the Agreement to the maximum extent possible pending ratification. A draft Resolution is annexed.⁴

Draft Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff

[The text of this draft is identical with the final text,⁵ except

⁴ This draft Resolution is identical with that in D-D(51) 206 (16 August 1951) and has therefore been omitted.

⁵ For final text, see page 34, *supra*.

that in the latter the square brackets found in Article 18 (*infra*) of D-D(51) 178 are deleted.]

* * * * *

ARTICLE 18

Officials of the Organisation agreed upon under Article 17 shall:

* * * * *

- (b) [be granted, together with their spouses and members of their immediate families residing with and dependent on them, the same immunities from immigration restrictions and aliens' registration as is accorded to diplomatic personnel of comparable rank;] ⁶

* * * * *

- (d) be given, together with their spouses and [members of their immediate families residing with and dependent on them,] ⁶ the same repatriation facilities in time of international crisis as are accorded to diplomatic personnel of comparable rank;

* * * * *

D-D(51) 206

Agreement on the Status of NATO, National Representatives and International Staff—Provisional Implementation (16 August 1951)

Draft Resolution on Provisional Implementation of the Agreement ¹

The Council Deputies,

Considering that some provisions of the Agreement signed today on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff, can be implemented by ad-

⁶ The words in square brackets were inserted by corrigendum of 10 August 1951, pursuant to an amendment to these two subparagraphs approved by the Council Deputies: D-R(51) 58, par. 52-54 (25 July 1951).

¹ Adopted (with the deletion of the words "signed today") by the Council Deputies: D-R(51) 68, par. 52(1) (3 October 1951).

ministrative action without the necessity for legislation and that such implementation would be useful in the period before the Agreement is ratified,

Recommend that signatory States should give effect to the Agreement provisionally, pending ratification, to the maximum extent possible.

D-D(51) 224

Agreement on the Status of NATO, National Representatives and International Staff—BENELUX Declaration (31 August 1951)

*Draft Declaration by the Governments of Belgium,
Luxembourg and the Netherlands*¹

On signing the Agreement of today's date regarding the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff, the Plenipotentiaries of the Kingdom of Belgium, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands, make the following declaration:

The nationals of the Kingdom of Belgium, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands may not avail themselves of the provisions of the present Agreement to claim in the territory of one of these aforesaid Powers any exemption which they do not enjoy in their own territory, with respect to duties, taxes and other dues, which have been or will be standardised by virtue of conventions which have been or will be concluded for the purpose of bringing about the Economic Union of Belgium, Luxembourg and the Netherlands.

D-D(51) 229

Agreement on the Status of NATO, National Representatives and International Staff—Extension to NATO Military Bodies (7 September 1951)

Report by the Chairman of the Working Group

1. I have the honor to report that the Working Group met on 24 August 1951 to consider the questions referred to it at the meeting of the Deputies on 22 August, concerning the draft Agreement

¹ Noted by the Council Deputies: D-R(51) 68, par. 52(3) (3 October 1951).

on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff.

2. The Working Group first discussed questions relating to Article 2 of the Agreement. They recommend that Article 2 should not be amended but that, at the time of the signature of the Agreement, a Resolution should be adopted in the form annexed to this report so as to make the Agreement applicable to the Military Representatives Committee, the Standing Group and the Military Standardization Agency. (The Secretariat has since drawn attention to the point that the Military Committee should also be included in the resolution, and it has accordingly been included in the annexed draft). As regards new agencies of these bodies which might be created in the future, the Working Group were of the opinion that it would be preferable to leave their position to be decided by the Deputies *ad hoc* when they are established.

3. Since the meeting of the Working Group, I have been informed that the Canadian Government have decided to accept Article 19 without reservation. The Working Group agreed that in this event Article 19 required no amendment.

*Draft Resolution*¹

The Council Deputies,

Having noted that Article 2 of the Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff, provides that the Agreement shall not apply to any military bodies of the Organisation unless the Council (which by definition includes the Council Deputies) decides otherwise,

Decide that the Agreement shall apply to the Military Committee, the Military Representatives Committee, the Standing Group and the Military Standardisation Agency as subsidiary bodies of the Organisation.

D-D(51) 252

Agreement between the United States and NATO, pursuant to Article 19 of the Agreement on the Status of NATO, National Representatives and International Staff (9 October 1951)¹

Agreement

Since the Government of the United States desires to enter into

¹ Adopted by the Council Deputies: D-R(51) 68, par. 52(2) (3 October 1951).

¹⁵ UST 1087, TIAS 2992. An earlier draft of this Agreement, which appeared in D-D(51) 211 (21 August 1951), has been omitted since it is identical

an arrangement with the North Atlantic Council, acting on behalf of the North Atlantic Treaty Organisation, as provided in Article 19 of the proposed Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff, signed at Ottawa, Canada, September 20, 1951, it is, therefore, agreed by the Government of the United States and the North Atlantic Council, acting on behalf of the North Atlantic Treaty Organisation, as follows:

1. Whenever the Organisation desires the services of a United States national, it will notify the Deputy United States Representative, North Atlantic Council, of: (A) The nature of the position to be filled; (B) The qualifications which an individual must possess to fill the position; and (C) The salary which such individual would receive if employed by the North Atlantic Treaty Organisation. The Organisation may notify the Government of the United States of the name(s) of any individual(s) it deems acceptable for the position.

2. The Government of the United States may assign to the Organisation a United States national from its Government service who is acceptable to the Organisation. The Government of the United States will provide security clearance for the individual concerned.

3. The Government of the United States will pay any and all salaries and emoluments of United States nationals, who are employed by it and assigned to the Organisation, from its own funds at rates determined by the Government of the United States.

4. The Organisation agrees that it will not pay salaries and emoluments to any citizen of the United States.

5. The Organisation will credit to the United States the amounts of salaries and emoluments which would otherwise have been paid by the Organisation to United States nationals and will deduct the total of such credits for each fiscal year from the amount assessed the Government of the United States by the Organisation, in respect of the annual contribution of the Government of the United States for the subsequent fiscal year.

In witness whereof, This Agreement is executed at London on this 29th day of September, 1951, by Sir F. R. Hoyer Millar, Vice-Chairman of the North Atlantic Council Deputies, on behalf of the North Atlantic Treaty Organisation, and by Charles M. Spofford,

ford, United States Deputy Representative to the North Atlantic Council, on behalf of the Government of the United States.

(Signed) F. R. Hoyer Millar

(Signed) Charles M. Spofford

D-D(51) 266

Status of Forces Agreement—Note by the Executive Secretary on Passport and Visa Requirements (2 November 1951)

* * * * *

3. The Netherlands Government has pointed out that national authorities should be supplied with samples of the documents mentioned in paragraph 2 of Article III. These documents are: Personal identity card, and individual or collective movement order. As the receiving State may require the movement orders to be countersigned by its appropriate representative, facsimile of these signatures would also be required (paragraph 2(b) of Article III).

4. The Italian Government proposes that movement orders should be standardized.

5. The Canadian Government is considering the possibility of waiving passport and visa requirements on a reciprocal basis in the case of members of forces located in a neighboring NATO receiving State who may wish to enter Canada on leave. In this case they should hold identity cards and official leave documents.

6. The following possibilities arise with regard to identity cards and movement orders:

- (i) introduction of a standard form of identity card for members of the forces of NATO countries; alternatively national authorities of all NATO countries should be provided with samples of personal identity cards in use;
- (ii) the adoption of a standard form of movement orders for use by all NATO forces or individual members of these forces; or to provide national authorities of all NATO countries with samples of individual and collective movement orders in use.

7. As instructed, the Secretariat has consulted the London Branch of the Standing Group Secretariat in this matter. It is recommended that, since this is a military question, it should be referred to the Standing Group for action.

D-D(51) 269

Status of Forces Agreement—Memorandum by the United Kingdom Deputy on Provisional Implementation and Claims Procedure (29 October 1951)¹

* * * * * *

2. The Netherlands and Italian Deputies have already pointed out that the documents provided for under Article III will need to be agreed by national authorities, and the Council Deputies decided on 3 October 1951 that the question of a standard form of movement order for forces of all NATO countries should be referred to the Standing Group. It should also be noted that national immigration services, as well as military authorities, are concerned with this question, and it is suggested that each member of the Military Representatives Committee, who will presumably be asked to endorse the Standing Group's recommendations, should be responsible for clearing the proposed form with his own national immigration authorities. The same procedure might also be followed in respect of specimens of the forces' identity cards used by the different NATO countries, though it does not seem necessary in this case to devise a standard form. A further question arising from Article III, already raised by the Canadian Deputy, is that of NATO forces proceeding on leave to another NATO country than that in which they are stationed. The United Kingdom is prepared to waive passports and visas for such forces, provided: (a) that they are carrying the documents prescribed in Article III and movement orders or leave passes indicating the duration of their leave, and (b) that the length of their leave (not being leave pending discharge) does not exceed 21 days.

3. Article V, paragraph 2, calls for a distinctive nationality mark for service vehicles, and it is suggested that this question should also be referred to the Standing Group or one of its agencies—possibly the Army Board of the Military Standardization Agency. It will further be necessary for the receiving State to have a central list of the vehicles maintained in its country by the sending State, and the same body might also make recommendations on how this should be arranged.

4. As indicated above, the United Kingdom is prepared to put the provisions of Article VIII into effect for any other NATO

¹ For discussion of the claims procedure set forth in Annex B, *supra*, see MS-R(52) 1 (16 January 1952).

country which is willing to afford reciprocal treatment to the United Kingdom. This might create a situation in which only a limited group of NATO countries were operating the claims provisions among themselves, but as it is envisaged under Article XVIII that the Agreement might at a given time be in force between only four of the NATO countries if it had not yet been ratified by the remaining signatories, this should not give rise to undue difficulty. Before Article VIII can be put into force, however, it will be necessary to agree on certain procedural arrangements. A draft resolution on this point is attached (Annex A), together with a draft procedural agreement (Annex B) and a specimen traffic accident form (Annex C). This last will, of course, require certain modifications to make it applicable to other Governments. It is suggested that these documents should be referred for consideration to the Working Group which drafted the main Agreement.

Annex A

Draft Resolution

The North Atlantic Council Deputies,

Considering that the implementation of Article VIII of the Agreement signed in London on 19th June, 1951, regarding the Status of Forces of Parties to the North Atlantic Treaty will be greatly facilitated by the adoption by the Contracting Parties of mutually acceptable arrangements on certain matters of common concern not provided for in the Agreement itself,

Approve for that purpose the arrangements set out in the Annex to this Resolution.

Annex B

Claims Procedure under Article VIII of the Agreement signed in London on 19th June, 1951, between the Parties to the North Atlantic Treaty regarding the Status of their Forces

1. Each Contracting Party shall inform the other Contracting Parties of the addresses of:

- (a) the Office or Department within its own territory nominated by it to deal with claims with which it is concerned in the capacity of receiving State (hereinafter referred to as "the Office of the Receiving State"); and
- (b) the Office or Offices nominated by it for dealing with claims with which it is concerned in the capacity of sending State

(hereinafter referred to as "the Office of the Sending State").

2. (a) Each Contracting Party shall make arrangements to secure that any damage or claim in which it is concerned and to which paragraph 1 or 2 of Article VIII applies is reported at the earliest possible moment to an Office or Department nominated by it under paragraph 1 of this Resolution.
 - (b) As soon as possible after an Office or Department has received a report in accordance with sub-paragraph (a) of this paragraph, it shall notify the appropriate Office or Department of each other State concerned and submit thereto its proposals as to how the matter should be dealt with.
 - (c) The Office or Department receiving a notification in accordance with sub-paragraph (b) shall, within 21 days, inform the Office or Department which has made the notification if it does not agree with the procedure proposed for dealing with the matter, and if it fails to do so the procedure shall be regarded as accepted.
 - (d) If the claim is submitted to arbitration in accordance with paragraph 2 of Article VIII; the Office of the Receiving State shall be responsible for arranging the appointment of the arbitrator agreed between the Contracting Parties concerned.
 - (e) The fees and expenses of the arbitrator appointed to decide a claim under paragraph 2 of Article VIII shall be paid in the first instance by the receiving State, which shall claim reimbursement by the other Contracting Parties of the amount of their shares through the half-yearly accounts rendered in accordance with paragraph 5(e)(iv) of Article VIII.
 - (f) Any reimbursement due in respect of amounts of compensation determined under paragraph 2 of Article VIII shall also be claimed through the half-yearly accounts referred to in (e) above.
3. (a) Any act, omission or occurrence which may give rise to a claim falling within the terms of paragraph 5 of Article VIII shall be reported by the Service unit or formation concerned to the Office of the Sending State as soon as possible in accordance with instructions which shall be issued by the sending State to its forces and civilian components.
 - (b) When a claim for which a sending State may be liable under paragraph 5 of Article VIII is received by any of its

authorities otherwise than from the Office of the Receiving State, the Office of the Sending State shall immediately notify the Office of the Receiving State.

- (c) When a claim for which liability of a sending State may exist under paragraph 5 of Article VIII is received by the receiving State otherwise than from the Office of the Sending State, the Office of the Receiving State shall immediately notify the Office of the Sending State.
 - (d) Immediately on being notified of a claim or possible claim in accordance with (a), (b) or (c) of this paragraph, the Office of the Sending State shall collect and record all relevant evidence obtainable from its own sources and shall send this evidence without delay to the Office of the Receiving State. In the case of traffic accidents, reports shall be made in the form annexed hereto in the language of the sending State and of the receiving State.
 - (e) The Office of the Receiving State shall make available to the sending State all information in its possession which the sending State may require for the purpose of taking disciplinary action against any member of its force or civilian component or for the purpose of taking such action as it may consider necessary in its own interests.
4. The procedure prescribed in paragraph 3 above shall also be followed in the case of claims to which paragraph 6 of Article VIII applies.
5. (a) The half-yearly statement which the receiving State is required to furnish under paragraph 5(e)(iv) of Article VIII shall be sent to the Office of the Receiving State and shall include:—
- (i) the reference number given to each case by the Office of the Sending State for the purpose of identification;
 - (ii) the reference number given to each case by the Office of the Receiving State;
 - (iii) the date of the incident, particulars of the Service unit or formation involved, and, if appropriate, the official number of the vehicle or aircraft concerned;
 - (iv) the total amount of the award paid;
 - (v) the date on which payment was made;
 - (vi) the name of the person to whom the award was made;
 - (vii) any amounts recovered from a third party by the receiving State in respect of an accident involving personnel of a sending State, the date on which recovery

was effected and the name of the person making payment.

- (b) Any sending State shall have the opportunity, upon request, of inspecting files upon which payments concerning it have been made by a receiving State, and such inspection will be carried out at the Office of the Receiving State.

6. Each of the Contracting Parties which has mutual forbearance or loss settlement agreements with insurers or other authorities for the purpose of regulating claims arising out of vehicle accidents may extend such agreements in order that they shall apply to claims in respect of damage or injury arising out of the use of vehicles belonging to sending States and for the settlement of which as receiving State it is responsible.

[Annex C has been omitted.]

D-D(51) 300(R)

Protocol on the Status of Allied Headquarters—Revised Draft (3 January 1952)¹

Draft of Protocol to be annexed to the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces

ARTICLE 1

Subject to the following provisions, the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces shall apply to Allied Headquarters and also to their personnel when outside their national territory.

Definitions

ARTICLE 2

- (a) "The Agreement" means the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces.

¹ The text of D-D(51) 300(R) is identical with that of D-D(51) 300 (12 December 1951), except for the insertion of a new Article 12 (military postal service) and the consequent renumbering of Articles 12 and 13 as Articles 13 and 14. The earlier text was not the subject of any recorded discussions. For discussion of D-D(51) 300(R), see MS-R(52) 2 (17-18 January 1952); MS-R(52) 4 (23 January 1952). See also D-D(52) 2 (3 January 1952).

- (b) "Allied Headquarters" means a Headquarters set up pursuant to the North Atlantic Treaty and established under a special agreement upon the territory of a Party to that Treaty, and made up of the elements covered in paragraph 1 (a) and (b) of Article I of the Agreement.
- (c) The abbreviation "SHAPE" stands for the Supreme Headquarters, Allied Powers in Europe.
- (d) "Subordinate Headquarters" means an Allied Headquarters operating with funds provided by SHAPE's international budget.

*Application of the Status of Forces Agreement to
Allied Headquarters*

ARTICLE 3

- (a) When members of an Allied Headquarters are not engaged in the performance of their duties, they shall be subject to the provisions set out in the Agreement.
- (b) When members of an Allied Headquarters are engaged in the performance of their duties, the rights and obligations which the Agreement gives to or imposes upon the sending State or its military authorities in respect of its own forces shall be vested in, or be incumbent upon, SHAPE. However, the right of jurisdiction and disciplinary powers over the members of an Allied Headquarters shall be exercised by their sending State in the cases and under the terms provided by Article VII of the Agreement.

ARTICLE 4

Instead of the collective or individual movement order which members of a force are required to have under paragraph 2(b) of Article III of the Agreement, there shall be substituted in respect of the members of an Allied Headquarters, an individual identity card issued by that Headquarters, bearing the name, Christian names, date and place of birth, nationality, rank, registration number and period of validity.

The civilian components of an Allied Headquarters and the dependents of members of such Headquarters shall carry a similar identity card issued in the same manner for the purpose of proving their identity.

These cards must be produced at all times upon request.

ARTICLE 5

For the implementation of paragraph 10 of Article VII of the Agreement, Allied Headquarters shall use their own police.

ARTICLE 6

If any immovable property, land or building has been provided for an Allied Headquarters by a receiving State, the latter shall resume possession of all installations as soon as these are no longer required by the Headquarters. In every case, the increase or loss of value of the property shall be evaluated in accordance with the domestic legislation of the receiving State. The Council Deputies shall decide the manner in which the resultant profits or losses to the receiving State are to be brought to account. Such profits or losses shall be distributed according to the arrangements for sharing capital costs on the SHAPE budget.

Rights, Immunities and Privileges of Allied Headquarters

ARTICLE 7

So far as necessary for the fulfilment of its task, SHAPE shall have the capacity to conclude contracts and to acquire or to dispose of property. The conditions on which it will exercise these rights shall form the subject of special agreements with the receiving State.

ARTICLE 8

Subject to the provisions of Article VIII of the Agreement, SHAPE may engage in legal proceedings as claimant or defendant. However, SHAPE and the receiving State may agree that the latter shall act on behalf of SHAPE in the courts of that State in the conduct of legal proceedings arising out of its contractual capacity.

No measure of execution or measure directed to the seizure or attachment of property in dispute shall be taken against SHAPE.

ARTICLE 9

- (a) To enable it to operate its international budget, SHAPE may hold currency of any kind and operate accounts in any currency.
- (b) Governments shall undertake to facilitate transfers of SHAPE's funds from one country to another and the con-

version of any currency held by SHAPE into any other currency.

ARTICLE 10

The inviolability of the documents and archives of Allied Headquarters shall be assured as follows:

- (a) archives and other official documents or papers of an Allied Headquarters kept in premises used by those Headquarters or kept by properly authorised members of a Headquarters shall not be seized, unless the Headquarters has expressly waived this immunity;
- (b) in cases falling within the jurisdiction of the receiving State, the authorities of that State may request that a qualified representative of the Headquarters concerned satisfies himself in their presence that the archives, documents and papers are of an official character.

Personal Immunities and Privileges

ARTICLE 11

The Supreme Commander, Allied Forces in Europe, shall have the status of a head of a diplomatic mission. His Deputies, his Chief of Staff, the Commanders-in-Chief under his Command, and possibly a small number of Staff Officers directly under his control, a list of whom shall be prepared and kept up to date by the North Atlantic Council Deputies, shall be granted, outside the territory of their sending State and for the duration of their mission:

- (a) immunity from personal arrest or detention;
- (b) inviolability of their personal papers and documents;
- (c) the facilities accorded to diplomats in respect of currency or exchange restrictions;
- (d) the same immunities and facilities as are accorded to diplomats in respect of their personal baggage;
- (e) immunity from legal process in respect of any words spoken and acts done by them in their official capacity and within the limits of their authority. This immunity in respect of words spoken and acts done shall continue after their duties terminate.

The privileges referred to in paragraphs (a) and (d) above shall also be accorded to dependents, as defined in Article I of the Agreement, of the persons entitled to them.

Military Postal Service

ARTICLE 12

Allied Headquarters may organise a Military Postal Service for the transmission of their mail and for the postal requirements of the members of their staffs.

The appropriate transportation may be effected by means at the disposal of Allied Headquarters.

If the P.T.T. Department of the receiving State is called upon to transmit telegrams, the charges in respect of such services shall be refunded to it.

Entry into Force

ARTICLE 13

This Protocol shall be submitted to the Council Deputies in accordance with document D-D(51) 127. It shall enter into force on the same conditions as the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces.

However, a special agreement between the Supreme Command and the authorities of the receiving State may fix the dates on which certain of its clauses shall enter into force by administrative means.

ARTICLE 14

Articles 2 to 12 of this Protocol may be revised in the circumstances provided in Article XVII of the Agreement.

D-D(51) 301(R)

Draft Agreement between France and SHAPE Regarding the Establishment and Operation of Allied Headquarters on French Territory (3 January 1952)¹

Draft Agreement between the Government of the French Republic and SHAPE regarding Special Conditions applicable for the Establishment and Operation of Allied Headquarters on French Territory

The Government of the French Republic and SHAPE,

Considering that the general relations between the Parties to the North Atlantic Treaty and Allied Headquarters have been defined

¹ For discussion, see D-D(52) 2 (3 January 1952); MS-R(52) 4 (23 January 1952).

in the Protocol annexed to the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, but that certain special provisions should be laid down by the Government of the French Republic and SHAPE regarding the establishment and operation in France of such Allied Headquarters as may be located there,

Have agreed as follows:

ARTICLE 1

Definitions

- (a) The "Agreement" means the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces.
- (b) "Allied Headquarters" means a Headquarters set up pursuant to the North Atlantic Treaty, and established under a special agreement upon the territory of a Party to that Treaty, and made up of the elements covered in paragraph 1 (a) and (b) of Article I of the Agreement.
- (c) The abbreviation SHAPE stands for the Supreme Headquarters, Allied Powers in Europe.
- (d) "Subordinate Headquarters" means an Allied Headquarters operating with funds provided by SHAPE's international budget.

ARTICLE 2

The peacetime location on French territory of the various sections of SHAPE and its subordinate headquarters shall be decided by direct agreement between the French Government and SHAPE. Any alteration in such location shall be decided in the same way.

ARTICLE 3

The French Government shall be kept informed by SHAPE of the Headquarters establishment and any alterations in such establishment. Insofar as such alterations concern complete units, whatever their size, they must receive the prior approval of the French Government.

ARTICLE 4

Any request or communication from SHAPE to the French Government or to the French authorities shall be transmitted through the French Military Representative attached to SHAPE Headquarters.

ARTICLE 5

The requirements of Allied Headquarters in regard to construction work, the renting of premises, the placing at their disposal of State property, and the provision of services connected with the use of any building, shall be met by the appropriate French Departments in accordance with French regulations applicable to transactions of the same type carried out on behalf of the State.

In the case of each contract, the technical specifications, the financial clauses and the list of firms invited to submit tenders shall be agreed and drawn up in consultation with SHAPE, and the approval of the contract shall also be subject to SHAPE's prior agreement. The contract shall then be signed and followed up by the French authorities.

Any disputes or legal proceedings which may arise with the contractors shall be investigated, pursued and settled by the French Departments in accordance with French regulations. Nevertheless, SHAPE shall be consulted prior to any compromise settlement and to any decision to institute or withdraw court proceedings.

The costs of carrying out contracts or settling legal actions shall normally be met out of a special account maintained by SHAPE in accordance with a procedure established by agreement with the French Liaison Mission assisting the Allied Armies.

The administrative expenses incurred by the French Government in respect of the matter covered by the present Article shall be refunded by SHIAPÉ on the basis of expenditures actually incurred.

ARTICLE 6

The right of acquisition provided by Article 7 of the Protocol shall be subject, in each individual case, insofar as real property is concerned, to the prior agreement of the French Government. In the exercise of their right of ownership, SHAPE and the subordinate Headquarters shall be under the obligation to respect French legislation and regulations.

ARTICLE 7

The adjustment of the increase or depreciation in value of private buildings rented shall be effected in accordance with French common law.

ARTICLE 8

With respect to purchases made in France, except those made in an emergency and those of small value, Allied Headquarters shall, when procuring goods required for their establishment and operation, pay due attention to the advice of the appropriate French Departments.

Nevertheless, in order to ensure that such purchases do not adversely affect the local economy, the French authorities shall indicate, as necessary, any articles the purchase of which is subject to restriction or prohibition.

ARTICLE 9

The recruitment and employment, in France, of the civilian labour required by Allied Headquarters shall be governed by the conditions laid down in paragraph 4 of Article IX of the Agreement, the appropriate social security contributions being paid in accordance with the provisions of the common law. However, Allied Headquarters may recruit their administrative civilian staff direct in all countries Parties to the North Atlantic Treaty.

Any person employed by any Allied Headquarters shall first be screened in respect of security by the Government which is in the best position to carry out such screening.

ARTICLE 10

At SHAPE's request, the French Government may consent to act on its behalf in any proceedings before the French courts relating to the settlement of disputes or legal actions arising out of the application of Articles 7 and 8 above.

ARTICLE 11

As an exception to the provisions of Article 4 above, applications for subscriptions to the telephone network and the TELEX network shall be submitted direct to the PTT Department. The appropriate official application forms shall be sent to the "Liaison Mission assisting the Allied Armies."

Application for the telephone and telegraph circuits required for the operation of Allied Headquarters shall be submitted to the "Military Commissary for Telecommunications Networks." The appropriate official application forms shall be sent to the "Liaison Mission assisting the Allied Armies."

The works performed and services rendered by the Ministry of PTT shall be charged in accordance with the regulations and rates in force in that Department in its dealings with the French Armed Forces.

ARTICLE 12

(a) The official mail of Allied Headquarters may be sent through the French Postal Services; where appropriate, it will be exempted, like the mail of the French Armed Forces, from prepaid postage; the

total amount of the postal charges shall be collected by the French PTT Department, with the approval of the SHAPE Budget Office, on receipt of an invoice drawn up periodically to show the verified volume of the mail in question.

(b) Correspondence, other than official documents, despatched from or addressed to Allied Headquarters and the members of their staffs, which is forwarded or received through the French Postal Services, must be prepaid by means of postage stamps of the sending country, in conformity with the provisions of the Convention and Arrangements of the Universal Postal Union.

(c) Articles despatched by or addressed to Allied Headquarters and members of their staffs through the post and in postal parcels, whether through the agency of the French Services or through the services of the Armed Forces, shall be subject to customs control.

The procedure to enable the exercise of this control and the collection of any duties and taxes which may be due shall be drawn up by direct agreement between the competent SHAPE authorities and the French customs authorities.

(d) Official consignments of the type covered by the previous paragraph shall be exempt from customs control, provided they are sealed or bear an official label, the form and wording of which shall be communicated to the French Customs Department.

ARTICLE 13

SHAPE and its Subordinate Headquarters may import, install and use on French territory military radio and radar stations.

The frequencies used shall be the subject of agreement between the Contracting Parties; they will be used exclusively for official purposes.

In peacetime, the technical arrangements connected in particular with the site and transmitting power of the stations shall be decided between the SHAPE services and the appropriate French authorities.

ARTICLE 14

(a) In order to meet its requirements in France, SHAPE may convert the currency in its possession into French francs; for this purpose special accounts shall be opened in its name in the Bank of France; the francs which are entered on such special accounts and are not used shall be reconvertible into the original currency.

(b) SHAPE may use the francs obtained by the surrender of one currency of the European Payments Union to purchase another currency of the European Payments Union.

ARTICLE 15

The French Government agrees to extend to the civilian components of Allied Headquarters and to dependents, on certain conditions and subject to certain limitations, the benefit of the provisions of paragraph 4 of Article XI of the Agreement.

At SHAPE's request the French Government shall inform it of such conditions and limitations.

ARTICLE 16

SHAPE and its Subordinate Headquarters shall be exempt from all direct taxation with the following exceptions:

- (a) the standard payment by employers of 5 percent of the salaries received by French nationals or persons normally domiciled in France;
- (b) charges by way of payment for public utility services;
- (c) taxes due on such premises as it may own under the terms of Article 5 (b) above.

They shall be exempt from taxes levied on income from sales and services rendered in their messes, bars, and canteens, provided that access to those premises is regulated by provisions which have received the prior approval of the appropriate French fiscal authorities and that they are run on non-commercial lines.

They shall take account of the views of the French Ministries of Finance and Economic Affairs in fixing the categories and quantities of imported goods which entitled persons may procure from the appropriate sales agencies of Allied Headquarters.

ARTICLE 17

The present agreement regarding special conditions for the establishment and operation on French territory of Allied Headquarters shall come into force after ratification, without prejudice to the earlier application of those of its provisions which may be implemented merely by administrative decision.

ARTICLE 18

The present agreement shall remain in force as long as SHAPE or any Headquarters are located in France. It may be reviewed at the request of one of the Parties and by common agreement between them.

D-D(52) 2**Protocol on the Status of Allied Headquarters—Report and Comments by France and SHAPE on the Draft Protocol and the Draft France-SHAPE Agreement (3 January 1952)¹***Report on the Draft Protocol***I**

1. As soon as it was announced that Supreme Headquarters, Allied Powers Europe (SHAPE) were to be installed in France, the French Government began to examine the conditions for the establishment and operation of those Headquarters and their integrated general staff. A first draft agreement in this connection was submitted to SHAPE on 15 March 1951.

2. On 7 May 1951, the Working Group charged by the Council Deputies with the examination of the status of the Armed Forces requested the French Government in a report² to study with SHAPE the question of the application of the Status of Forces Agreement to Allied Headquarters and to make proposals to it which might form the subject of a Protocol to be attached to the Agreement on the Status of the Armed Forces.

3. These terms of reference went beyond the question of the special relations between SHAPE and the French Government. For that reason it seemed desirable to prepare:

- (a) a text of general scope to settle the status of Allied Headquarters and members of their staffs in the form of a Protocol to be attached to the Agreement of 19 June 1951; and
- (b) a special text to settle the relations between SHAPE and the French Government.

4. The negotiations conducted with SHAPE resulted in a draft Protocol of fourteen articles, which the French Government has the honor to submit to the Council Deputies.

5. It did not seem possible to separate the Protocol from the draft bilateral Agreement, although the Council Deputies are not required to give a decision on the latter text, which—subject to a final agreement to be reached as regards Article 16(a) and (c)—has been agreed by both Parties; but the bilateral Agreement throws light upon the Proto-

¹ References: D-D(51) 300(R) and D-D(51) 301(R), both dated 3 January 1952. The paragraph numbers in the present document have been added by the editor.

² D-D(51) 127, Report, par. 5 (7 May 1951).

col, to which it is complementary. It should therefore be read with the present report.

II

6. The broad lines of the Protocol may be summarized as follows.

7. Article 1 lays down the principle of the application, to Allied Headquarters and the members of their staffs, of the Agreement on the Status of the Armed Forces concluded on 19 June 1951.

8. In laying down the specific methods of applying this Agreement, the French Government was guided by two considerations:

1. Because of its assignment and the international budget allocated to it, SHAPE has been given a certain status by the Council Deputies.
2. Members of Allied Headquarters, though members individually of the armed forces of their sending country, are grouped into one integrated general staff, and these Headquarters themselves, in the case of subordinate Headquarters, are dependent upon SHAPE.

9. It therefore seemed logical to lay down that when members of an Allied Headquarters acted in their official capacity, that is, as members of an integrated Headquarters, SHAPE replaced their sending State with regard to the rights and obligations which the Agreement of 19 June 1951 gives to or imposes upon such State. This rule makes it possible to interpret in a general manner the Articles of the Agreement, whether the sending State is designated under that name or by the term "Contracting Party," as in Article VIII, paragraphs 1, 2, 3 and 4. On the contrary, when members of the Headquarters are not acting in their official capacity, the Agreement of 19 June 1951 applies in a straightforward manner, without interposition by SHAPE.

10. After prescribing how the Agreement of 19 June 1951 shall apply, the draft determines the special privileges and benefits accorded to Allied Headquarters and to certain members of these bodies by reason of their assignment. It recognizes SHAPE's capacity, under certain conditions, to conclude contracts, to acquire or to dispose of property, authorizes it to effect whatever currency transactions are necessary to enable it to operate its international budget, and lays down that the archives and documents of all Allied Headquarters shall be inviolable. Moreover, it grants the privileges of diplomatic status both to the Supreme Commander personally and to a number of persons charged with highly responsible duties; a list of these persons will be put forward by SHAPE to the Council Deputies through the Standing Group.

III

11. The draft Protocol has been agreed by SHAPE except as regards four points:

- (a) Financial settlements to take place once the installations built by SHAPE are no longer required (Article 6 of the draft);
- (b) exemption from excise duties and sales tax (new Article proposed by SHAPE);
- (c) free conversion of currency (Article 9);
- (d) operation of military post offices in the receiving State (Article 12).

12. Concerning these four points, the observations of SHAPE are submitted below, together with the comments of the French Government.

A. INSTALLATIONS BUILT BY SHAPE AND NO LONGER REQUIRED.

Comments of SHAPE

13. Special attention is drawn to Articles 6 and 7 [of the draft Protocol]. Under Article 7, SHAPE and its subordinate Headquarters are empowered to acquire immovable property, but this right is strictly limited by the provisions of Article 6 of the draft Agreement between the French Government and SHAPE, as the French Government only intends to authorize SHAPE or any of its subordinate Headquarters to acquire immovable property in certain exceptional cases of no great importance.

14. According to French law, all buildings or other immovable construction built or to be built in France automatically becomes the property of the owner of the ground upon which it is built.

15. Since it is the intention of the French Government only to authorize SHAPE to acquire immovable property of no great importance, the result of Article 6 will be that existing or intended construction on French territory, financed by the international budget, will automatically become the property of the French Government.

16. Moreover, in view of the fact that similar laws on property are not in force in all NATO countries, SHAPE does not consider itself justified in agreeing to Article 6, and the question is therefore submitted for the special attention of the Council Deputies.

Comments of French Government

17. The difficulty encountered here derives from the differences in the domestic laws of the various countries. In the first place, in the

case of privately owned grounds or buildings, the law of the receiving State applies *de plano*. In the second place, the French Government would point out that, under its own legislation, the buildings built by SHAPE upon ground belonging to the State, or the alterations made by SHAPE to a building owned by the State, would be the subject of a right of "ownership" on the part of SHAPE. Such buildings or alterations may increase the value of grounds or buildings, thus entitling SHAPE to a claim upon the French Government; but this increase in value may be more than offset by the depreciation undergone by the ground or building through having been altered or put to a new purpose.

18. Once any immovable property owned by France is no longer required by SHAPE, the comparison of these two factors will make it possible finally to determine which of the two parties—the French Government or SHAPE—is a creditor to the other, and to what extent.

19. Assuming this first question to be settled, there remains that of sharing the profit or loss between member States.

20. The wording proposed for Article 6 uses that of a formula already employed by the specialist Working Group.

B. EXEMPTION FROM EXCISE DUTIES AND SALES TAX.

Proposed Article

21. SHAPE requests the insertion, between Articles 8 and 9, of the following new Article:

Although SHAPE does not, in principle, claim exemption from excise duties and from the sales tax included in the price of movable or immovable goods, Governments of States which are Parties to the North Atlantic Treaty shall nevertheless take appropriate administrative measures to ensure the remission or reimbursement of the amount of these duties and taxes whenever SHAPE makes, for its own official use, important purchases whose price includes duties and taxes of this nature.

Comments of SHAPE

22. The French Government points out that its own services are not exempted from these taxes; but it should not be overlooked that in such cases these payments obviously amount to a transfer from one account to another, and result from the application of the "gross budget" principle in the French budget system: they are therefore fictitious.

23. Moreover, the payment of these taxes by SHAPE or its subordinate Headquarters constitutes a real payment with a corresponding entry of foreign currency, to the benefit of the French Treasury. Hence such payments represent a levy paid by SHAPE without counterpart.

24. The payment of these taxes could be justified in part if the fact of SHAPE being located on French territory resulted in a financial loss for the French Government; but, in reality, the French Government derives considerable profit, made up in particular of dollars, as a direct result of the establishment of SHAPE and its subordinate Headquarters on French territory.

25. In confining its request to an exemption covering important purchases, SHAPE considers it is making a reasonable proposal which, moreover, is in accordance with the text agreed in connection with the Status of the North Atlantic Treaty Organization, National Representatives and International Staff.

Comments of French Government

26. The object of the present Protocol is to apply to Allied Headquarters the Agreement of 19 June 1951 on the Status of Armed Forces. For the questions not covered by that Agreement—and for those questions only—it is possible to refer to the Agreement signed at Ottawa on 20 September 1951, concerning the status of NATO civilian agencies.

27. Now, with regard to the specific point referred to above, there is a contradiction between the status of civilian agencies and that of Armed Forces, since the latter in its Article IX, paragraph 8, reads as follows:

Neither a force, nor a civilian component, nor the members thereof, nor their dependents, shall by reason of this Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the receiving State.

28. It is in application of this Article that NATO Allied Forces—and the French services themselves—are subject to the duties and taxes in question. Allied Headquarters must similarly be subject to this system, since the Agreement of 19 June 1951 on the Status of Forces applies to them.

29. The “Protocol annexed to the Agreement” on the Status of Forces cannot contain provisions contrary to those of the Agreement itself.

C. FREE CONVERSION OF CURRENCY.

Proposed amendment

30. SHAPE requests that Article 9 of the draft Protocol be replaced by the following text:

1. Without restriction by financial controls, regulations or moratoria of any kind,
 - (a) SHAPE may hold currency of any kind and operate accounts in any currency;
 - (b) SHAPE may freely transfer its funds from one country to another or within any country and convert any currency held by it into any other currency at the most favourable official rate of exchange for a sale or purchase, as the case may be.
2. In exercising its rights under paragraph 1 above, SHAPE shall pay due regard to any representations made by any member State and shall give effect to such representations in so far as it is practicable to do so.

Comments of SHAPE

31. SHAPE points out that the Agreement on the Status of Armed Forces contains no provision governing the administration of international funds.

32. The situation of SHAPE is comparable in all points to the other bodies of the North Atlantic Treaty Organization. SHAPE considers that the text proposed by the French Government is not in accordance with the status of SHAPE, an international body acting on behalf of all the nations Parties to the North Atlantic Treaty and administering funds provided by these nations. For this reason, no restriction should hinder the conversion of such funds.

33. It remains to be pointed out that the text proposed by SHAPE, which is based on D-D(51) 178, contains a limiting clause designed to prevent any undesirable effect which might result from free convertibility.

34. Such effects would in fact be limited since, as the French Government points out, SHAPE will pay the greater part of its expenditures in the currency of the receiving State.

35. Admittedly, the French Government has granted conversion facilities within the framework of the European Payments Union; but these facilities are somewhat precarious since they depend upon the continued existence of the European Payments Union itself.

36. The SHAPE treasury should be sufficiently independent to be

able to deal with any situation, and free convertibility is therefore essential.

Comments of French Government

37. The remarks by SHAPE refer only to paragraph (b) of Article 9 of the draft Protocol in connection with which SHAPE requests complete liberty in the conversion of currency.

38. In practice, the French Government grants SHAPE the facilities in requests in this respect. In its specific Agreement with SHAPE, it undertakes to give SHAPE freedom of arbitration in respect of currency within the framework of the European Payments Union. However, for reasons of administrative convenience and in order to control the movement of currencies, it does not consider it advisable to extend unconditionally these facilities to other currencies.

39. Moreover, as a result of their being established on the territory of a given country, Allied Headquarters are bound to effect the greater part of their expenditures in the currencies of that country. By granting them free disposal of their holdings in currency, with the possibility of reconversion to the currency of origin limited to the amount of the budget contribution, the receiving State, generally speaking, enables Headquarters to meet any expenditures they are required to incur in this currency.

40. This question, which affects all member States, is submitted for consideration by the Deputies.

D. OPERATION OF MILITARY POST OFFICES IN THE RECEIVING STATE.

Proposed Amendment

41. SHAPE requests that Article 12 of the draft Protocol be replaced by the following:

The receiving State shall authorise the establishment of any Military Post Office which a nation party to the North Atlantic Treaty may wish to set up for the use and welfare of the staff of its own national Forces when these Forces are part of an Allied Headquarters.

Comments of SHAPE

42. SHAPE considers that the right to set up national Military Post Offices for the use of the military personnel of Allied Headquarters located in NATO countries should form the subject of a special Article in the Protocol, to apply to all nations which are parties to the North Atlantic Treaty.

43. The French Government, in one of the paragraphs of the Agreement, proposes that this right should be authorized in France in the form of an "allied" military postal service directly supervised by the Headquarters concerned. SHAPE does not share this view.

44. Not only are the Military Post Offices of each country governed by regulations which cannot apply on an international plane, but in addition an international agency would have no control over them. It follows then that the organization of Military Post Offices is purely a national concern and that the administration of them cannot form part of the military command.

Comments of French Government

45. This question which, it seemed originally, should form the subject of a paragraph of the Agreement between the French Government and SHAPE, comes in reality within the framework of the twelve NATO Powers. For this reason it is inserted in the Protocol.

46. The French Government and SHAPE are agreed as to the aim to be achieved; they disagree merely as to the methods of achieving that aim.

47. It is doubtful whether all member States will each be able to set up a national postal service in Allied Headquarters. If they did so, the solution proposed by the French Government in Article 12 would surely be preferable: that is, to operate in each Allied Headquarters an integrated postal service in which, under a unified system of control, preferably carried out by an official of the receiving State, the administrative regulations peculiar to each country would be observed. The initial studies carried out in France on this subject would appear to show that this solution is practicable.

MS-D(52) 3

Protocol on the Status of Allied Headquarters—Revised Draft (18 January 1952)¹

Draft Protocol on the Status of Allied Headquarters Set Up Pursuant to the North Atlantic Treaty

The Parties to the North Atlantic Treaty, signed in Washington on 4th April, 1949.

¹ Reference: D-D(51) 300(R) (3 January 1952). The present revision was prepared by the Chairman of the Working Group on the basis of the discussion reported in MS-R(52) 2 (17-18 January 1952). For a discussion of this revised draft, see MS-R(52) 3 (22 January 1952).

Considering that international military Headquarters may be established in their territories, by arrangement, under the North Atlantic Treaty, and

Desiring to define the status of such Headquarters and of their personnel within the North Atlantic area,

Have agreed to this Protocol to the Agreement signed between them in London on 19th June, 1951, regarding the Status of their Forces:

ARTICLE 1

In this Protocol the expression

- (a) "the Agreement" means the Agreement signed in London on 19th June, 1951, between the Parties to the North Atlantic Treaty regarding the Status of their Forces;
- (b) "Supreme Headquarters" means Supreme Headquarters Allied Powers in Europe or any equivalent military Headquarters set up pursuant to the North Atlantic Treaty and operating with funds provided under an international budget;
- (c) "Allied Headquarters" means any Supreme Headquarters and any military Headquarters which is subordinate to a Supreme Headquarters and operates with funds provided under the international budget of that Supreme Headquarters [and is commanded by an officer of not less than the equivalent of general rank].²

ARTICLE 2

Subject to the following provisions, the Agreement shall apply to Allied Headquarters in the territory of a Party to this Protocol in the North Atlantic area, and to the military and civilian personnel of such Headquarters included in the definitions of force and civilian component in Article 3 of this Protocol, when in such territory in connection with their official duties.

ARTICLE 3

For the purpose of applying the Agreement to an Allied Headquarters the expressions "force" and "civilian component," wherever they occur in the Agreement, shall have the meaning set out below:

- (a) "force" means the personnel attached to the Allied Headquarters who belong to the land, sea or air armed services of any Party to the North Atlantic Treaty;
- (b) "civilian component" means the civilian personnel attached to

² Square brackets in original text.

the Allied Headquarters who are either in the employ of the Headquarters or in the employ of an armed service of a Party to the North Atlantic Treaty and who are not stateless persons, nor nationals of any State which is not a Party to the Treaty, nor nationals of, nor ordinarily resident in, the State in which they are for the time being located.

ARTICLE 4

The rights and obligations which the Agreement gives to or imposes upon the sending State or its authorities in respect of its forces or their civilian components shall, in respect of an Allied Headquarters and its personnel, be vested in or attached to the appropriate Supreme Headquarters and the authorities responsible under it, except that:

- (a) the right which is given by Article VII of the Agreement to the military authorities of the sending State to exercise criminal and disciplinary jurisdiction shall remain vested, in the case of members of a force, in the military authorities of the State to whose armed service they belong, or, in the case of members of a civilian component, in the military authorities of the State by whose armed service they are employed;
- (b) the obligations imposed upon the sending State or its authorities by Article II, by paragraphs 5(a) and 6(a) of Article VII, by paragraphs 9 and 10 of Article VIII and by Article XIII shall attach both to the Allied Headquarters and to the State to which the force or civilian component concerned belongs;
- (c) for the purposes of paragraphs 2(a) and 5 of Article III, paragraph 6 of Article VIII, and Article XIV, the sending State shall be the State to which the force or civilian component concerned belongs.

ARTICLE 5

Every member of an Allied Headquarters shall have a personal identity card issued by the Headquarters showing names, date and place of birth, nationality, rank or grade, registration number and period of validity. This card must be presented on demand.

ARTICLE 6

For the purposes of paragraph 10 of Article VII of the Agree-

ment, Allied Headquarters shall use their own military police.

ARTICLE 7

The exemption from taxation accorded under Article X of the Agreement to members of a force or civilian component in respect of their salaries and emoluments shall apply, as regards members of an Allied Headquarters to whom this Protocol applies, to salaries and emoluments paid to them as such members by the Allied Headquarters or by the State to whose force or civilian component they belong.

ARTICLE 8

So far as is necessary for the fulfilment of its functions, each Supreme Headquarters shall possess juridical personality and have the capacity to conclude contracts and to acquire and dispose of property. The receiving State may, however, make the exercise of such capacity subject to special arrangements between it and the Supreme Headquarters.

ARTICLE 9

1. Subject to the provisions of Article VIII of the Agreement, a Supreme Headquarters may engage in legal proceedings as claimant or defendant. However, the Supreme Headquarters and the receiving State may agree that the latter shall act on behalf of the Headquarters in any legal proceedings to which the Headquarters is a party before the courts of the receiving State.

2. No measure of execution or measure directed to the seizure or attachment of its property or funds shall be taken against any Allied Headquarters.

ARTICLE 10

1. To enable it to operate its international budget, a Supreme Headquarters may hold currency of any kind and operate accounts in any currency.

2. The Parties to this Protocol shall facilitate transfers of the funds of a Supreme Headquarters from one country to another and the conversion of any currency held by a Supreme Headquarters into any other currency.

ARTICLE 11

The archives and official documents of an Allied Headquarters kept in premises used by those Headquarters or in the possession of any properly authorised member of the Headquarters shall be inviolable,

unless the Headquarters has waived this immunity. The Headquarters shall, however, at the request of the receiving State, verify the nature of any documents to confirm that they are entitled to inviolability under this Article.

ARTICLE 12

All differences relating to the interpretation or application of this Protocol shall be settled by negotiation between the parties in dispute without recourse to any outside jurisdiction. Except where express provision is made to the contrary in this Protocol or in the Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council or any of the subsidiary bodies authorised to act in this behalf.

ARTICLE 13

1. Articles XV and XVII to XX of the Agreement shall apply as regards this Protocol as if they were an integral part thereof, but so that the Protocol may be reviewed, suspended, ratified, acceded to, denounced or extended in accordance with those provisions independently from the Agreement.

2. The present Protocol may be supplemented by bilateral agreement between the receiving State and a Supreme Headquarters, and the authorities of a receiving State and a Supreme Headquarters may agree to give effect, by administrative means in advance of ratification, to any provisions of this Protocol or of the Agreement as applied to it.

In witness whereof the undersigned plenipotentiaries have signed the present Protocol.

Done in London this ----- day of -----, 1952, in the English and French language, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

D-D(52) 24

Status of Forces Agreement and Protocol on the Status of Allied Headquarters—Draft Report by the Working Group (24 January 1952)¹

The Working Group met from 16 through 23 January 1952 and took the following action in response to the request of the Council Deputies:

* * * * * *

2. Prepared a draft resolution, for adoption by the Council Deputies, setting out certain administrative understandings as to the procedure to be followed in implementing Article VIII of the Military Status Agreement. This has been distributed as D-D(52) 26. It is recommended that this draft resolution be adopted by the Council Deputies as soon as possible, since at least three countries have indicated a willingness to implement Article VIII, on a reciprocal basis, in advance of ratification of the Agreement, and the adoption of this resolution will facilitate action by these countries. The Working Group did not consider it feasible at this time to recommend the adoption of a standard form for reporting on traffic accidents, but suggests that consideration be given to preparation of such a form at a later date.

3. Agreed upon a text of a draft Protocol, which extends the Agreement to cover Allied Headquarters, distributed as D-D(52) 27. The Working Group wishes to call to the attention of the Council Deputies the following points which were raised in the discussion relating to this Protocol:

- (a) The Representative of the French Government urged that a provision be included which would make it possible for Supreme Headquarters to establish an integrated military post office or postal service as an alternative to the national military post offices proposed by SHAPE. The Working Group recognized that either solution raised certain difficulties which made it inadvisable to attempt to cover this subject in the present Protocol, and the Working Group therefore recommends that it be left to bilateral arrangements, subject to later consideration on an international basis if that appears necessary.
- (b) It was proposed that the Supreme Commander and the Commanders-in-Chief directly subordinate to him be granted diplomatic privileges. This presented difficulties for certain Governments, and the Working Group agreed to leave this question to national arrangements.

¹ The substance of this Report was previously issued, on 21 January 1952, as MS-D(52) 4, which has therefore been omitted.

3. The revised text of the Protocol has been distributed to Governments and to SHAPE for comment, and the Working Group requests that such comments be submitted to the Secretariat by 15 February, so that they can be distributed to delegations for consideration and review at a further meeting of the Working Group to be called on 29 February 1952. The Working Group will then prepare a revision of the Protocol and submit it to the Council Deputies for approval and signature.

4. In connection with the draft Protocol, the Working Group reviewed the related Agreement between the Government of France and SHAPE, previously distributed as D-D(51) 301 (Revise), and explained in the report of the French Delegation distributed as D-D(52) 2. The Working Group commented in detail on this draft and suggested that the French Government and SHAPE should revise the document in the light of these comments and send the revised text to the Council Deputies for information. There are three provisions of this Agreement which the Working Group wishes to call to the attention of the Deputies:

- (a) Article 5 provides that the requirements of SHAPE in regard to construction work, leasing of premises and provision of services connected with the use of any building, shall be met by the appropriate French Departments in accordance with French regulations. It was noted that this provision may be affected in the future by any conclusions reached by the Council Deputies on the subject of multi-national bidding for construction financed from international budgets.
- (b) Article 15, which relates to the conversion of currency, is not satisfactory from the point of view of SHAPE. This provision will be considered further in the discussions between the French Government and SHAPE, and, if an agreement satisfactory to both is not reached, the question will be submitted to the Council Deputies for consideration.
- (c) Article 16, which states certain exceptions to the tax exemption granted to SHAPE, does not go as far in granting tax exemption as does Article 9 of the Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff, signed on 20 September 1951. This raises questions for the Governments contributing to the SHAPE international budget which may require further consideration.

D-D(52) 26**Status of Forces Agreement—Claims Procedure in Implementation of Article VIII (23 January 1952)¹***Draft Resolution*

The North Atlantic Council Deputies,

Considering that the implementation of Article VIII of the Agreement signed in London on 19 June 1951, regarding the Status of Forces of Parties to the North Atlantic Treaty, will be greatly facilitated by the adoption by the Contracting Parties of mutually acceptable administrative arrangements on certain matters of common concern not provided for in the Agreement itself.

Approve for that purpose the administrative arrangements set out in the Annex to this Resolution to be applied by each of the Contracting Parties when Article VIII is brought into effect in respect of it.

Annex

Claims Procedure under Article VIII of the Agreement signed in London on 19 June 1951 between the Parties to the North Atlantic Treaty regarding the Status of their Forces

1. Each Contracting Party shall inform the other Contracting Parties of the addresses of
 - (a) the Office or Offices within its own territory nominated by it to deal with claims with which it is concerned in the capacity of receiving State (hereinafter referred to as “the Office of the Receiving State”); and
 - (b) the Office or Offices nominated by it for dealing with claims with which it is concerned in the capacity of sending State (hereinafter referred to as “the Office of the Sending State”).
2. (a) Each Contracting Party shall make arrangements to secure that any damage or claim in which it is concerned and to which paragraph 1, 2 or 4 of Article VIII applies is re-

¹ Reference: D-D(51) 269 (29 October 1951); MS-D(52) 1 (18 January 1952). The latter document is a revision prepared by the Chairman of the Working Group on the basis of discussions reported in MS-R(52) 1 (16 January 1952); it is identical with the present text, except for the minor variations noted below for par. 3(e), 3(f) and 5(vii); it has therefore been omitted. For discussion of the present text, see D-R(52) 9(F) (30 January 1952); D-R(52) 12 (6 February 1952).

ported at the earliest possible moment to an Office nominated by it under paragraph 1 of this Resolution.

- (b) As soon as possible after an Office has received a report in accordance with sub-paragraph (a) of this paragraph, it shall notify the appropriate Office of each other State concerned, and submit thereto its proposals as to how the matter should be dealt with.
 - (c) The Office receiving a notification in accordance with sub-paragraph (b) shall, within six weeks, inform the Office which has made the notification if it does not agree with the procedure proposed for dealing with the matter, and if it fails to do so the procedure shall be regarded as accepted.
 - (d) If the claim is submitted to arbitration in accordance with paragraph 2 of Article VIII, the Office of the Receiving State shall be responsible for arranging the appointment of the arbitrator agreed between the Contracting Parties concerned.
 - (e) The fees and expenses of the arbitrator appointed to decide a claim under paragraph 2 of Article VIII shall be paid in the first instance by the receiving State, which shall claim reimbursement by the other Contracting Parties of the amount of their shares through the half-yearly accounts rendered in accordance with paragraph 5(e)(iv) of Article VIII.
 - (f) Any reimbursement due in respect of amounts of compensation determined under paragraph 2 of Article VIII shall also be claimed through the half-yearly accounts referred to in (e) above.
3. (a) Any act, omission or occurrence which may give rise to a claim falling within the terms of paragraph 5 of Article VIII shall be reported by the Service unit or formation concerned to the Office of the Sending State as soon as possible in accordance with instructions which shall be issued by the sending State to its forces and civilian components. If the receiving State so requests, the sending State shall consider whether practicable arrangements can be made whereby reports will also be sent directly by the Service unit or formation concerned to the authorities of the receiving State.
- (b) When a claim for which a sending State may be liable under paragraph 5 of Article VIII is received by any of its authorities otherwise than from the Office of the Receiving State, the Office of the Sending State shall immediately notify the Office of the Receiving State.

- (c) When a claim for which liability of a sending State may exist under paragraph 5 of Article VIII is received by the receiving State otherwise than from the Office of the Sending State, the Office of the Receiving State shall immediately notify the Office of the Sending State.
- (d) Immediately on being notified of a claim or possible claim in accordance with (a), (b) or (e) of this paragraph, the Office of the Sending State shall collect and record all relevant evidence obtainable from its own sources and shall send this evidence without delay to the Office of the Receiving State.
- (e) The Office of the Receiving State shall make available to the Sending State all information in its possession which the Sending State may request for the purpose of taking disciplinary action against any member of its force or civilian component or for the purpose of taking such other² action as it may consider necessary.
- (f) The Office of the Sending State shall, at the request of the Office of the Receiving State in any particular case, inform the latter of any disciplinary action against a member of a force or civilian component for any act or omission of such member which has given rise to a claim within paragraph 5 of Article VIII;³ provided that the sending State need not give any information under this sub-paragraph until the claim has been adjudicated or settled by the receiving State. Any information given in pursuance of this sub-paragraph shall, if the Sending State so requests, be treated as confidential by the receiving State. Nothing in this sub-paragraph shall affect paragraph 6(b) of Article VII of the Agreement.

4. The procedure prescribed in paragraph 3 above shall also be followed in the case of claims to which paragraph 6 of Article VIII applies.

5. The half-yearly statement which the receiving State is required to furnish under paragraph 5(e) (iv) of Article VIII shall be sent to the Office of the Sending State and shall include:—

- (i) the reference number given to each case by the Office of the Sending State for the purpose of identification;
- (ii) the reference number given to each case by the Office of the Receiving State;
- (iii) the date of the incident, particulars of the Service unit

² The word "other" does not appear in MS-D(52) 1 (18 January 1952).

³ In MS-D(52) 1 (18 January 1952), the text of par. 3(f) ends at this point.

- or formation involved, and, if appropriate, the official number of the vehicle or aircraft concerned;
- (iv) the total amount of the award paid;
- (v) the date on which payment was made;
- (vi) the name of the person to whom the award was made;
- (vii) any amounts recovered from a third party by the receiving State in respect of an accident involving personnel or property of a sending State, the date on which recovery was effected and the name of the third party⁴ making the payment.

6. Each of the Contracting Parties which has mutual forbearance or loss settlement agreements with insurers or other authorities for the purpose of regulating claims arising out of vehicle accidents may arrange with any other Contracting Party to extend such agreements in order that they shall apply to claims in respect of damage or injury arising out of the use of vehicles belonging to sending States and for the settlement of which as receiving State it is responsible.

D-D(52) 27

Protocol on the Status of Allied Headquarters—Revised Draft (24 January 1952)¹

Draft Protocol on the Status of Allied Headquarters set up pursuant to the North Atlantic Treaty

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949,

Considering that international military headquarters may be established in their territories, by separate arrangement, under the North Atlantic Treaty, and

Desiring to define the status of such Headquarters and of their personnel within the North Atlantic area,

Have agreed to this Protocol to the Agreement signed between them in London on 19th June, 1951, regarding the Status of their Forces:

ARTICLE 1

In this Protocol the expression—

- (a) “the Agreement” means the Agreement signed in London on

⁴ D-D(52) 26, *supra*, substitutes the words “third party” for the word “person” in par. 5(vii) of MS-D(52) 1 (18 January 1952).

¹ Reference: MS-D(52) 3 (18 January 1952) for previous text; MS-R(52) 5 (24–26 March 1952) for discussion of present text.

19th June, 1951, between the Parties to the North Atlantic Treaty regarding the Status of their Forces;

- (b) "Supreme Headquarters" means Supreme Headquarters Allied Powers in Europe or any equivalent military Headquarters set up pursuant to the North Atlantic Treaty and operating with funds provided under an international budget;
- (c) "Allied Headquarters" means any Supreme Headquarters and any military Headquarters which is subordinate to a Supreme Headquarters and which operates with funds provided under the international budget of that Supreme Headquarters;
- (d) "North Atlantic Council" means the Council established by Article 9 of the North Atlantic Treaty or any of its subsidiary bodies authorised to act on its behalf.

ARTICLE 2

Subject to the following provisions, the Agreement shall apply to Allied Headquarters in the territory of a Party to this Protocol in the North Atlantic area, and to the military and civilian personnel of such Headquarters included in the definitions in sub-paragraphs (a), (b) and (c) of Article 3 of this Protocol, when in such territory in connection with their official duties.

ARTICLE 3

For the purpose of applying the Agreement to an Allied Headquarters the expressions "force," "civilian component," and "dependent," wherever they occur in the Agreement, shall have the meanings set out below :

- (a) "force" means the personnel attached to the Allied Headquarters who belong to the land, sea or air armed services of any Party to the North Atlantic Treaty;
- (b) "civilian component" means (i) the civilian personnel attached to the Allied Headquarters who are in the employ of an armed service of a Party to the North Atlantic Treaty and who are not stateless persons, nor nationals of any State which is not a Party to the Treaty, nor nationals of, nor ordinarily resident in, the State in which the Headquarters is located, and (ii) such other categories of civilian personnel in the employ of the Allied Headquarters as the North Atlantic Council shall decide;
- (c) "dependent" means the spouse of a member of a force or civilian component, as defined in sub-paragraphs (a) and (b) of this Article, or a child of such member depending on him or her for support.

ARTICLE 4

The rights and obligations which the Agreement gives to or imposes upon the sending State or its authorities in respect of its forces or their civilian components shall, in respect of an Allied Headquarters and its personnel, be vested in or attached to the appropriate Supreme Headquarters and the authorities responsible under it, except that

- (a) the right which is given by Article VII of the Agreement to the military authorities of the sending State to exercise criminal and disciplinary jurisdiction shall not be exercised by an Allied Headquarters but shall remain vested, in the case of members of a force, in the military authorities of the State to whose armed service they belong, or, in the case of members of a civilian component, in the military authorities of the State, if any, by whose armed service they are employed;
- (b) the obligations imposed upon the sending State or its authorities by Article II, by paragraphs 5(a) and 6(a) of Article VII, by paragraphs 9 and 10 of Article VIII, and by Article XIII, of the Agreement, shall attach both to the Allied Headquarters and to the State to which the force or civilian component concerned belongs;
- (c) for the purposes of paragraphs 2(a) and 5 of Article III, and Article XIV, of the Agreement, the sending State shall be the State to which the force or civilian component belongs;
- (d) for the purposes of paragraph 6 of Article VIII, the sending State shall be the State to whose armed service the person belongs whose act or omission has given rise to the claim or, in the case of a member of a civilian component, the State by whose armed service he is employed or, if there is no such State, the Allied Headquarters of which he is a member.

ARTICLE 5

Every member of an Allied Headquarters shall have a personal identity card issued by the Headquarters showing names, date and place of birth, nationality, rank or grade, registration number, photograph and period of validity. This card must be presented on demand.

ARTICLE 6

For the purposes of paragraph 10 of Article VII of the Agreement, Allied Headquarters shall use their own military police.

ARTICLE 7

The exemption from taxation accorded under Article X of the Agreement to members of a force or civilian component in respect of their salaries and emoluments shall apply, as regards members of an Allied Headquarters to whom this Protocol applies and subject to paragraph 4 of Article X of the Agreement, to salaries and emoluments paid to them as such members by the Allied Headquarters or by the State to whose force or civilian component they belong.

ARTICLE 8

Each Supreme Headquarters shall possess juridical personality; it shall have the capacity to conclude contracts and to acquire and dispose of property. The receiving State may, however, make the exercise of such capacity subject to special arrangements between it and the Supreme Headquarters or any subordinate Allied Headquarters acting on behalf of the Supreme Headquarters.

ARTICLE 9

1. Subject to the provisions of Article VIII of the Agreement, a Supreme Headquarters may engage in legal proceedings as claimant or defendant. However, the receiving State and the Supreme Headquarters or any subordinate Allied Headquarters authorised by it may agree that the receiving State shall act on behalf of the Supreme Headquarters in any legal proceedings to which that Headquarters is a party before the courts of the receiving State.

2. No measure of execution or measure directed to the seizure or attachment of its property or funds shall be taken against any Allied Headquarters.

ARTICLE 10

1. To enable it to operate its international budget, a Supreme Headquarters may hold currency of any kind and operate accounts in any currency.

2. The Parties to this Protocol shall facilitate transfers of the funds of a Supreme Headquarters from one country to another and the conversion of any currency held by a Supreme Headquarters into any other currency.

ARTICLE 11

The archives and other official documents of an Allied Headquarters kept in premises used by those Headquarters or in the possession of any properly authorised member of the Headquarters shall be inviolable, unless the Headquarters has waived this immunity. The

Headquarters shall, however, at the request of the receiving State, verify the nature of any documents to confirm that they are entitled to inviolability under this Article.

ARTICLE 12

The whole or any part of the present Protocol or of the Agreement may be applied, by decision of the North Atlantic Council, to any military body (other than an Allied Headquarters) which is established pursuant to the North Atlantic Treaty and operated with funds provided under an international budget.

ARTICLE 13

All differences relating to the interpretation or application of this Protocol shall be settled by negotiation between the parties in dispute without recourse to any outside jurisdiction. Except where express provision is made to the contrary in this Protocol or in the Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council.

ARTICLE 14

1. Articles XV and XVII to XX of the Agreement shall apply as regards this Protocol as if they were an integral part thereof, but so that the Protocol may be reviewed, suspended, ratified, acceded to, denounced or extended in accordance with those provisions independently from the Agreement.

2. The present Protocol may be supplemented by bilateral agreement between the receiving State and a Supreme Headquarters, and the authorities of a receiving State and a Supreme Headquarters may agree to give effect, by administrative means in advance of ratification, to any provisions of this Protocol or of the Agreement as applied by it.

In witness whereof the undersigned plenipotentiaries have signed the present Protocol.

Done in London this ----- day of -----, 1952, in the English and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

D-D(52) 48(R)**Status of Forces Agreement—Memorandum by the United States on Interpretations relating to Implementation (16 February 1952)¹***Memorandum by the United States Delegation*

In indicating in the Council Deputies' report to the Council its willingness and ability to implement certain provisions of the Military Status Agreement, the United States wishes to make it clear that action is based on provision of existing regulations and administrative arrangements which it has been possible to make, but that additional legislation will not be put into effect prior to ratification of the treaty. In implementing the treaty, the United States wishes to make its position with regard to certain provisions clear, as follows:

A. The United States interprets certain provisions as set forth below and seeks the concurrence of other Deputies in these views:

(1) The United States does not consider that the Agreement (particularly Article XI, paragraph 4) affects in any way, directly or indirectly, present or future operations of service PX's, commissaries or similar establishments. The United States wishes to continue the existing arrangements with most countries and to reserve the right to deal directly with individual NATO member States on this subject. We do not consider that the absence of specific reference to post exchanges constitutes a renunciation of present understandings or the right to negotiate in the future on this subject.

(2) Article IX, paragraph 2. It is the United States interpretation that this provision neither precludes continuance of long-standing practices or existing arrangements nor the possibility of future bilateral negotiations on the subject.

(3) Article IX, paragraph 3. The United States interpretation of this provision is that it means that the minimum obligation of the receiving State is to provide for the sending State accommodation and billeting similar to that provided for its own forces, that bilateral arrangements are necessary only where the receiving State is to furnish accommodation at its expense, and that the sending State without further agreement with the receiving State may furnish, equip and add to facilities for its forces at its discretion.

¹ This document is merely a rearrangement of the items covered in D-D(52) 48 (8 February 1952), which has therefore been omitted.

(4) Article IX, paragraph 8. The United States considers that this provision has no affirmative effect on tax status and does not alter existing arrangements or the right to negotiate future arrangements concerning taxes.

B. The United States wishes to clarify its position as indicated in the report to the Council, as follows:

(1) Article I, paragraph 2. The Federal Government cannot bind the States in this subject but anticipate that their cooperation will result practically in full implementation.

(2) Article VI. For practical purposes the Article is now effective, but legislation will be necessary to assure absolutely that this is true in all cases for the United States as a receiving State.

(3) Article IX, paragraph 6. We call attention to the special problem created by the private ownership of transport systems in the United States.

(4) Article X, paragraph 1. On a reciprocal basis we are willing to implement it at once so far as Federal taxes are concerned, but cannot bind the States on this subject prior to ratification of the treaty, although as a practical matter we expect their cooperation in putting it into effect.

(5) Article XI. Although we have indicated our willingness to implement this provision and will try to do so, there may be some delay in taking the necessary internal administrative steps, particularly with regard to paragraph 11.

(6) Article XVI. The United States anticipates that, as a practical matter, this procedure will be followed before the Agreement comes into force.

(7) Article IV. This will be implemented to the extent that it is consistent with the Geneva Convention on Road Traffic when that Convention becomes effective on the basis of reciprocity with other parties to that Convention.

MS-D(52) 5

Protocol on the Status of Allied Headquarters—Comments by Governments and by SHAPE (14 March 1952)¹

I. Comments by the Canadian Government.

ARTICLE 4

1. Paragraph (d). How does this Article accord with the appointment of an arbitrator under paragraph 8 of Article VIII of the Agreement?

¹ Reference: D-D(52) 27 (23 January 1952) for the text under discussion;

ARTICLE 8

2. It is not clear to the Canadian authorities why Supreme Headquarters would actually require juridical personality to acquire property, nor why they should have to engage in legal proceedings as claimant or defendant.

ARTICLE 9

3. Paragraph 1. [This repeats the comment made in par. 2 immediately preceding.]

4. Paragraph 2. It can be understood that a sending State would have sovereign immunities but not, normally, a Supreme Headquarters. How is this to be reconciled?

II. Comments by the French Government.

PREAMBLE

5. In paragraph 4 of the Preamble, amend the text to read: "Have agreed to the present Protocol."

ARTICLE 1

6. Amend the first line to read: "In the present Protocol the expression."

7. Paragraph (b). We propose that it should be specified that a Supreme Headquarters is not a recipient of funds provided under an international budget but has its *own* budget. This is the basis for the juridical personality conferred on Supreme Headquarters by Article 8. Accordingly, it is suggested that the words "of its own" should be added at the end of paragraph (b).

ARTICLE 2

8. Amend to read: "in sub-paragraphs (a) and (b) of Article 3."

ARTICLE 3

9. Inclusion or exclusion of nationals of the receiving State. The text originally proposed by the French Government in agreement with SHAPE² provided under Article 1 that, *with regard to the personal status of individuals*, the Protocol did not extend to nationals of the receiving State, whether civilian or military personnel. The French Government, which has no reason to depart from this

MS-R(52) 5 (24-26 March 1952) for discussion of the comments here made. The items in the above document, MS-D(52) 5, have been rearranged by the editor and paragraph numbers have been added.

view, would, however, have no objection to the Protocol being applied, as in D-D(52) 27, to the *members of the force* of the receiving State; but it notes that the same text distinguishes between the categories of civilian components as follows:

- (a) under (i), nationals of the receiving State are excluded;
- (b) under (ii), the absence of any restriction means that it is possible to include them if they are not covered by the definition in (i); even if the present wording of Article 3 were retained, this would lead to the inclusion of new clauses providing for the application of Articles X and XI of the Agreement (fiscal and customs provisions).

A priori, it does not appear advisable to lay down different regulations for military and civilian personnel or, with respect to civilian components, to distinguish between categories (i) and (ii) when deciding whether or not nationals of the receiving State are covered by the term "civilian component."

The inclusion of nationals or residents of the receiving State would be acceptable, provided that they enjoy no privileged position as compared with their compatriots who are not members of SHAPE, or with members of SHAPE who are nationals of other NATO countries.

The consequences of this will be indicated below in connection with Article 7.

10. Stateless persons and nationals of non-NATO countries. The Agreement applies only to nationals of States which are party to the North Atlantic Treaty. It is essential that the same restrictions on nationality that appear in Article I, par. 1(b) of the Agreement should be retained specifically in Article 3, par. (c)(ii), of the Protocol.

11. The arguments set out above lead to the conclusion that it seems possible to combine (i) and (ii) in the form proposed in the following draft. Accordingly, it is suggested that paragraph (b) should be amended to read as follows:

"civilian component" means the civilian personnel on the establishment of the Allied Headquarters who come within the categories agreed by the North Atlantic Council and who are not stateless persons, nor nationals of any State which is not a Party to the North Atlantic Treaty.

ARTICLE 4

12. In the opening sentence, amend to read "of the Allied Headquarters and their personnel," instead of the words "of an Allied Headquarters and its personnel."

13. Add the following sentence as a new paragraph at the end of paragraph (a) :

In the case of members of a civilian component who are not members of the force of a Party to the Agreement, the authorities of the receiving State shall exercise exclusive jurisdiction with regard to offences committed on the territory of the receiving State which are covered by the legislation of that State.

ARTICLE 7

14. With respect to taxation on salaries and emoluments, assuming that nationals or residents of the receiving State are not to be excluded from the definition of the civilian component, it is necessary to extend to them the provisions of paragraph 4 of Article X of the Agreement.

15. As a consequence of extending to the nationals of the receiving State the status of a member of the force or of a civilian component of an Allied Headquarters, it is necessary to include provisions limiting the application to them of the exemptions defined in Articles X and XI of the Agreement.

16. It is suggested that the present Article 7 be numbered as (a)(i), and that the following provisions should be added to the Article as (a)(ii) and (b) (tentative draft) :

(a) (i) [Present Article 7].

(ii) For the purpose of applying Article X of the Agreement and paragraph (i) above, to Allied Headquarters, the words "member of a force" in paragraph (b) of Article X of the Agreement shall be replaced by "member of a force or of a civilian component."

(b) The provisions in paragraphs 5 and 6 of Article XI of the Agreement shall not apply to nationals of the receiving State.

ARTICLE 8

17. We consider it necessary to return to the wording "so far as necessary for the fulfilment of its task"; the limitations imposed later in the Article refer only to the exercise of the capacity and not to its extent. Accordingly, it is suggested to amend Article 8 to read as follows:

Each Supreme Headquarters shall have the capacity to conclude contracts and to acquire and dispose of property, so far as necessary for the fulfilment of its task. The receiving State may, however, make the exercise of such capacity subject to special arrangements between it and the Supreme Headquarters.

ARTICLE 11

18. In accordance with customary practice in the case of diplomatic representatives, it is essential that the documents should be verified *in the presence of* the representative of the receiving State. Accordingly, it is suggested that the last sentence be amended to read as follows:

Furthermore, the Headquarters shall, at the request of the receiving State, and in the presence of a representative of that State, verify the nature of any documents to confirm that they are entitled to inviolability under this Article.

ARTICLE 13

19. It is suggested that the words "between the Contracting Parties" should be inserted in the first line, after the words "All differences."

III. Comments of the Italian Government.

ARTICLE 10

20. In order to make clear the purpose of Article 10, add the following as paragraph 3:

3. Such undertaking to facilitate the transfer or conversion of Supreme Headquarters' funds does not imply any strict obligation for the Governments to perform such transfer or conversion, but only to facilitate these operations.

IV. Comments of the Netherlands Government.

ARTICLE 1

21. The definition in Article 1 of "Supreme Headquarters" and of "Allied Headquarters" is not satisfactory. The words "of that Supreme Headquarters" at the end of the sentence under (c) give the impression that each of the subordinate Headquarters operates with funds provided under a budget of the Supreme Headquarters to which it is subordinate. In practice, however, this is not the case, since each subordinate Headquarters has a budget of its own, the amount of which is not reflected by its Supreme Headquarter's budget.

ARTICLE 2

22. The words "and their dependents" should be inserted after the words "personnel of such Headquarters."

ARTICLE 3

23. At the end of paragraph (b), the following words should be added:

These categories shall not include stateless persons, nor nationals of any State which is not a Party to the Treaty, nor nationals of nor persons who are ordinarily resident in the State in which the Headquarters is located.

ARTICLE 4

24. Paragraph (b). Under this paragraph should be inserted paragraph 4 of Article III of the Agreement.

25. Paragraph (d). Under this paragraph should be inserted paragraph 7 of Article VIII of the Agreement.

ARTICLE 9

26. The scope of paragraph 2, as it stands now, seems too wide. This paragraph should not affect the right of the receiving State to the seizure of property or funds, connected with an offense, as recognized by paragraph 6(a) of Article VII and paragraph 4 of Article XIII of the Agreement.

ARTICLE 10

27. The text of Article 10 is acceptable to the Netherlands Government only if it is generally accepted that the words "shall facilitate" give some latitude to Governments and cannot be interpreted as if they meant "shall under all circumstances effectuate."

V. Comments by the United Kingdom Government.

ARTICLE 2

28. It is suggested that the drafting of this Article would be improved by the following amendments:

- (a) Delete the words "Subject to the following provisions," and insert after "apply" the words "as hereinafter provided."
- (b) After the words "personnel of such Headquarters" insert "and their dependents." Add the following words at the end of the Article: "or, in the case of dependents, the official duties of their spouse or parent."

ARTICLE 3

29. It is proposed that paragraph (b) should be redrafted to make the restrictions as to nationality and residence apply to the persons in category (ii) as well as to those in category (i), and also to limit

the application of category (ii) to persons "attached to the Allied Headquarters," as in the case of category (i). The words "the State in which the Headquarters is located" should be replaced by the words "the receiving State."

ARTICLE 4

30. In the first sentence after the word "personnel," insert the words "and their dependents to whom the Agreement applies in accordance with Article 2 of this Protocol."

31. In paragraph (a), amend the words following after "an Allied Headquarters" to read as follows:

... but shall remain vested, in the case of members of a force and their dependents, in the military authorities of the State to whose armed service the member belongs, or, in the case of members of a civilian component and their dependents, in the military authorities of the State, if any, by whose armed service the member is employed.

32. In paragraph (b), delete the words "the State to which the force or civilian component concerned belongs," and substitute the following: "any State whose armed service, or any member or employee of whose armed service, or the dependent of such member or employee, is concerned."

33. In paragraph (c), delete the words "the State to which the force or civilian component concerned belongs," and substitute the following:

... in the case of members of a force and their dependents, the State to whose armed service the member belongs, or, in the case of members of a civilian component and their dependents, the State, if any, by whose armed service the member is employed.

ARTICLE 7

34. For consistency of drafting with the remainder of the Agreement, the following amendments are suggested:

(a) In both places in which the words "members of an Allied Headquarters" appear, substitute therefor the words: "personnel of an Allied Headquarters."

(b) Delete the words "to whom this Protocol applies," and substitute the words: "to whom the Agreement applies in accordance with Article 2 of this Protocol."

ARTICLE 12

35. The expression "military organisation" is preferable to "military body."

VI. Comments of the United States Government.

PREAMBLE

36. Amend paragraph 3 of the Preamble to read: "Desiring to define the status of such Headquarters and the personnel thereof within . . ."

ARTICLE 1

37. In paragraph (c), the phrase "the international budget of that Supreme Headquarters" should be changed to read: "an international budget."

ARTICLE 3

38. In paragraph (b), amend the text to read:

"civilian component" means civilian personnel who are not stateless persons, nor nationals of any State which is not a Party to the Treaty, nor nationals of, nor ordinarily resident in, the State in which the Headquarters concerned is located, and who are (i) attached to the Allied Headquarters and in the employ of an armed service of a Party to the North Atlantic Treaty, and (ii) in such other categories of civilian personnel in the employ of the Allied Headquarters as the North Atlantic Council shall decide.

ARTICLE 4

39. Amend paragraph (d) to read: "the obligations imposed by paragraph 6 of Article VIII of the Agreement shall attach to the sending State which shall for this purpose be the State to whose armed services. . ."

ARTICLE 5

40. Add at the end of this Article the words "of appropriate authorities."

ARTICLE 6

41. Amend "Allied Headquarters shall use" to read: "Allied Headquarters may use." We also suggest that it might be appropriate to add something to the effect that the receiving State shall take all necessary measures to protect property and personnel of Allied Headquarters.

ARTICLE 7

42. Delete the words "and subject to paragraph 4 of Article X of the Agreement," and add, at the end of the paragraph, the words: "except that this Article shall not exempt any member of a force or

civilian component from taxation imposed by a State of which such member is a national."

ARTICLE 10

43. In paragraphs 1-2, the words "Supreme Headquarters" should be changed to "Allied Headquarters" throughout, since subordinate international Headquarters have their own budgets.

44. In paragraph 2, change "the Parties" to "Each Party," and change "conversion of any currency" to read "conversion of its currency." At the end of this paragraph, add the words: "when necessary to meet the requirements of an Allied Headquarters."

ARTICLE 11

45. At the end of the first sentence, change the word "immunity" to "inviolability."

OTHER COMMENTS

46. The United States continues strongly to desire that the Protocol include, as one of its provisions, the principle set forth in D-D(51) 217(R), as adopted by the Council Deputies.

47. The United States suggests that the Working Group consider further the substance of deleted Article 11 of D-D(51) 300(R), concerning privileges and immunities to be granted certain senior international military officers. Although we found the Article as drafted unsatisfactory, we feel that the Protocol should define certain limited privileges and immunities necessary to the performance of such officers' duties, as has been done for similar international officials in the Agreement on the Status of NATO.

The United States considers it necessary that limited privileges and immunities be granted to the Supreme Commander's Deputies, his Chief of Staff, Commander-in-Chief, and a small number of staff officers. Along the lines of Articles 12 and 17 of the Agreement on the Status of NATO, we suggest that these individuals be designated by agreement between the North Atlantic Council, the Supreme Headquarters concerned, and the host State. The privileges granted should not exceed those listed in Article 18 of the Agreement on the Status of NATO. The United States would accept that listing as an appropriate text for this Protocol.

48. In the matter of military post offices, the United States does not consider it practical for Allied Headquarters to establish their own postal services. We therefore suggest that the Protocol might incorporate the following:

The receiving State shall authorise and assist the establishment of military postal services which a Party to this Protocol may wish

to organise for the use and welfare of the staff of an Allied Headquarters or of a force or civilian component. Assistance provided shall be reimbursed in accordance with accepted international postal precedents and agreements.

NEW ARTICLE

49. The United States suggest that an Article along the following lines be inserted in the Protocol:

It is agreed in principle that, for the purpose of facilitating the establishment, construction, maintenance and operation of Allied Headquarters, these Headquarters should be relieved from taxes and that, in accordance with this principle, the Parties to this Protocol shall exercise their best efforts to provide such tax relief. It is further agreed

- (a) that the assets and the property of an Allied Headquarters shall be exempted from all customs duties and quantitative restrictions on imports and exports of articles imported or exported by an Allied Headquarters for its official use; articles imported under such exemption shall not be disposed of, by way of either sale or gift, in the country into which they are imported, except under conditions approved by the Government of that country;
- (b) that expenditures of an Allied Headquarters shall be relieved from taxes of a host country on a basis no less favourable than that provided for by such host country in the case of any similar expenditures made under similar circumstances in connexion with common defence efforts by any other Party to the North Atlantic Treaty or by the NATO.

VII. Comments by SHAPE.

ARTICLE 3

50. The following definition is thought preferable to the definition presently given in the draft Article 3(b):

“civilian component” means (i) the civilian personnel attached to the Allied Headquarters who are in the employ of an armed service of a Party to the North Atlantic Treaty, and who are not stateless persons, nor nationals of any State which is not a Party to the Treaty, nor nationals of, nor ordinarily resident in, the State in which the Headquarters is located; and, (ii) the civilian

graded staff listed as such in the establishment of an Allied Headquarters, including nationals of and those normally resident in the receiving State; and, (iii) such other categories of civilian personnel in the employ of an Allied Headquarters as the North Atlantic Council may decide.

The category of civilian personnel whom it is desired to cover in the Protocol is the graded staff who may be of any NATO nationality, including that of the receiving State. By graded staff is meant the civilian permanent staff whose pay is based on an international scale of pay approved by the North Atlantic Council.

A list of categories at present allowed to SHAPE is available; this list has received the approval of the Military Budget Committee. Subordinate Headquarters have similar graded staff lists which have to receive the approval of both SHAPE and the Military Budget Committee.

ARTICLE 10

51. Paragraph 2. SHAPE wishes to re-assert its firm opinion, already expressed in the Working Group, that no provision other than that laid down in Article 8 of the Ottawa Agreement should be made applicable to the NATO funds in its care. These funds are not its property but belong to the North Atlantic Treaty Organization, exactly as do the funds provided for other subsidiary bodies such as the FEB, DPB and for the infrastructure program. In this respect, SHAPE is no more than a manager on behalf of the Organization. It cannot, therefore, be contemplated that restrictions such as moratoria, measures to prevent the flight of capital, or any other similar measures, should be permitted to paralyze or even to hinder the movement of funds necessary for the operation of military Headquarters under any circumstances.

The size of the funds at the disposal of SHAPE does not affect the above considerations; and, furthermore, it has already been pointed out that transfers and conversions involve only relatively small amounts which certainly would not be sufficient to have a noticeable effect on the economy of the host country.

If it appeared that such transfers or conversions could, because of economic or financial difficulties, have a damaging effect on the host country's economy, paragraph 2 of Article 8 of the Ottawa Agreement contains the necessary safeguard. Furthermore, SHAPE under such circumstances would consider it a duty to operate in liaison with the host country and would undertake as far as practicable to give effect to any representation that would be made at the time.

In any case, SHAPE would consider as unsatisfactory any clause

which does not expressly mention the obligation on the host country to allow, under all circumstances, the transfers and conversions which are essential for the operation of military Headquarters established in the common interest of the Contracting Parties.

EXCISE DUTIES AND SALES TAXES

52. It is noted that the question of whether Allied Headquarters should pay excise duties and sales taxes on important purchases for official use, paid for out of international funds, has not yet been resolved. It was understood from the United States Representative that this question was at present being studied elsewhere. In the absence of direction in this matter and the rejection of SHAPE's suggested Article in the Protocol, it is necessary to point out that SHAPE is faced with meeting such excise duties and sales taxes which are being demanded.

MS-D(52) 6

Protocol on the Status of Allied Headquarters—Revised Draft (27 March 1952)¹

Draft Protocol on the Status of Allied Headquarters set up pursuant to the North Atlantic Treaty

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949,

Considering that international military Headquarters may be established in their territories, by separate arrangement, under the North Atlantic Treaty, and

Desiring to define the status of such Headquarters and of the personnel thereof within the North Atlantic Treaty area,

Have agreed to the present Protocol to the Agreement signed between them in London on 19th June, 1951, regarding the Status of their Forces:

ARTICLE 1

In the present Protocol the expression

- (a) "the Agreement" means the Agreement signed in London on 19th June, 1951, between the Parties to the North Atlantic Treaty regarding the Status of their Forces;

¹ Reference: D-D(52) 27 (23 January 1952) for previous text; MS-R(52) 6 (2-3 May 1952) for discussion of the present text.

- (b) "Supreme Headquarters" means Supreme Headquarters, Allied Powers in Europe, or any equivalent military Headquarters set up pursuant to the North Atlantic Treaty and having an international budget;
- (c) "Allied Headquarters" means any Supreme Headquarters and any military Headquarters which is subordinate to a Supreme Headquarters and which operates with funds provided under an international budget;
- (d) "North Atlantic Council" means the Council established by Article 9 of the North Atlantic Treaty or any of its subsidiary bodies authorised to act on its behalf.

ARTICLE 2

Subject to the following provisions, the Agreement shall apply to Allied Headquarters in the territory of a Party to the present Protocol in the North Atlantic area, and to the military and civilian personnel of such Headquarters and their dependents included in the definitions in sub-paragraphs (a), (b) and (c) of Article 3 of this Protocol, when such personnel are present in such territory in connection with their official duties or, in the case of dependents, the official duties of their spouse or parent.

ARTICLE 3

For the purpose of applying the Agreement to an Allied Headquarters the expressions "force," "civilian component," and "dependent," wherever they occur in the Agreement, shall have the meanings set out below.

- (a) "force" means the personnel attached to the Allied Headquarters who belong to the land, sea or air armed services of any Party to the North Atlantic Treaty;
- (b) "civilian component" means civilian personnel who are not stateless persons, nor nationals of any State which is not a party to the Treaty, nor nationals of, nor ordinarily resident in, the receiving State, and who are (i) attached to the Allied Headquarters and in the employ of an armed service of a Party to the North Atlantic Treaty or (ii) in such categories of civilian personnel in the employ of the Allied Headquarters as the North Atlantic Council shall decide;
- (c) "dependent" means the spouse of a member of a force or civilian component, as defined in sub-paragraphs (a) and (b) of this Article, or a child of such member depending on him or her for support.

ARTICLE 4

The rights and obligations which the Agreement gives to or imposes upon the sending State or its authorities in respect of its forces or their civilian components shall, in respect of an Allied Headquarters and its personnel and their dependents to whom the Agreement applies in accordance with Article 2 of the present Protocol, be vested in or attached to the appropriate Supreme Headquarters and the authorities responsible under it, except that

- (a) the right which is given by Article VII of the Agreement to the military authorities of the sending State to exercise criminal and disciplinary jurisdiction shall not be exercised by an Allied Headquarters but shall remain vested in the military authorities of the State, if any, to whose military law the person concerned is subject;
- (b) the obligations imposed upon the sending State or its authorities by Article II, paragraph 4 of Article III, paragraphs 5(a) and 6(a) of Article VII, paragraphs 9 and 10 of Article VIII, and Article XIII, of the Agreement, shall attach both to the Allied Headquarters and to any State whose armed service, [or any member or employee of whose armed service,]² or the dependent of such member or employee, is concerned;
- (c) for the purposes of paragraphs 2(a) and 5 of Article III, and Article XIV, of the Agreement, the sending State shall be, in the case of members of a force and their dependents, the State to whose armed service the member belongs, or, in the case of members of a civilian component and their dependents, the State, if any, by whose armed service the member is employed;
- (d) the obligations imposed on the sending State by virtue of paragraphs 6 and 7 of Article VIII of the Agreement shall attach to the State to whose armed service the person belongs whose act or omission has given rise to the claim or, in the case of a member of a civilian component, the State by whose armed service he is employed or, if there is no such State, the Allied Headquarters of which he is a member. Both the State, if any, to which obligations attach under this paragraph and the Allied Headquarters concerned shall have the rights of the sending State in connection with the appointment of an arbitrator under paragraph 8 of Article VIII.

² The words in square brackets, evidently omitted by a typist's error, have been supplied from the text of MS-D(52) 6(R) (5 May 1952).

ARTICLE 5

Every member of an Allied Headquarters shall have a personal identity card issued by the Headquarters showing names, date and place of birth, nationality, rank or grade, registration number, photograph and period of validity. This card must be presented on demand.

ARTICLE 6

For the purposes of paragraph 10 of Article VII of the Agreement, Allied Headquarters may use their own military police.

ARTICLE 7

1. The exemption from taxation accorded under Article X of the Agreement to members of a force or civilian component in respect of their salaries and emoluments shall apply, as regards personnel to whom the Agreement applies in accordance with Article 2 of this Protocol, to salaries and emoluments paid to them as such personnel by the Allied Headquarters or by the State to whose force or civilian component they belong, except that this Article shall not exempt any member of a force or civilian component from taxation imposed by a State of which such member is a national.

2. The provisions in paragraphs 5 and 6 of Article XI of the Agreement shall not apply to nationals of the receiving State.

ARTICLE 8

1. For the purpose of facilitating the establishment, construction, maintenance and operation of all Allied Headquarters, these Headquarters shall be relieved, so far as practicable, from duties and taxes, and each Party to the present Protocol shall enter into negotiation with any Allied Headquarters operating in its territory for the purpose of concluding an agreement to give effect to this provision.

2. An Allied Headquarters shall have the right granted to a force under Article XI of the Agreement subject to the same conditions.

3. The expression "duties and taxes" in this Article does not include charges for services rendered.

ARTICLE 9

1. Any land, buildings or installations acquired from the international funds of an Allied Headquarters and no longer required by

the Headquarters shall be disposed of under arrangements approved by the North Atlantic Council and the proceeds shall be distributed among or credited to the Parties to the North Atlantic Treaty in the proportions in which they contribute to the capital costs of the Headquarters.

2. Any land, buildings or installations provided for the use of an Allied Headquarters by the receiving State without charge to the Headquarters (other than a nominal charge) and no longer required by the Headquarters shall be handed back to the receiving State, and any increase or loss in the value of the property provided by the receiving State resulting from its use by the Headquarters shall be determined in accordance with the law of the receiving State and distributed among or credited or debited to the Parties to the North Atlantic Treaty in the proportions in which they contribute to the capital costs of the Headquarters.

ARTICLE 10

Each Supreme Headquarters shall possess juridical personality; it shall have the capacity to conclude contracts and to acquire and dispose of property. The receiving State may, however, make the exercise of such capacity subject to special arrangements between it and the Supreme Headquarters or any subordinate Allied Headquarters acting on behalf of the Supreme Headquarters.

ARTICLE 11

1. Subject to the provisions of Article VIII of the Agreement, a Supreme Headquarters may engage in legal proceedings as claimant or defendant. However, the receiving State and the Supreme Headquarters or any subordinate Allied Headquarters authorised by it may agree that the receiving State shall act on behalf of the Supreme Headquarters in any legal proceedings to which that Headquarters is a party before the courts of the receiving State.

2. No measure of execution or measure directed to the seizure or attachment of its property or funds shall be taken against any Allied Headquarters, except for the purposes of paragraph 6(a) of Article VII and paragraph 4 of Article XIII of the Agreement.

ARTICLE 12

1. To enable it to operate its international budget, an Allied Headquarters may hold currency of any kind and operate accounts in any currency.

2. The Parties to the present Protocol shall, at the request of a Supreme Headquarters, facilitate transfers of the funds of an Allied Headquarters from one country to another and the conversion of any currency held by an Allied Headquarters into any other currency, when necessary to meet the requirements of any Allied Headquarters.

ARTICLE 13

The archives and other official documents of an Allied Headquarters kept in premises used by those Headquarters or in the possession of any properly authorised member of the Headquarters shall be inviolable, unless the Headquarters has waived this immunity. The Headquarters shall, at the request of the receiving State and in the presence of a representative of that State, verify the nature of any documents to confirm that they are entitled to immunity under this Article.

ARTICLE 14

1. The whole or any part of the present Protocol or of the Agreement may be applied, by decision of the North Atlantic Council, to any military organisation (other than an Allied Headquarters) which is established pursuant to the North Atlantic Treaty and operates with funds provided under an international budget.

2. If and when the European Defence Community comes into being, the present Protocol may be applied to the personnel of the European Defence Community and their dependents attached to an Allied Headquarters at such time and in such manner as may be determined by the North Atlantic Council.

ARTICLE 15

All differences between the Parties to the present Protocol or between any such Parties and any Allied Headquarters relating to the interpretation or application of the Protocol shall be settled by negotiation between the parties in dispute without recourse to any outside jurisdiction. Except where express provision is made to the contrary in the present Protocol or in the Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council.

ARTICLE 16

1. Articles XV and XVII to XX of the Agreement shall apply as regards the present Protocol as if they were an integral part thereof, but so that the Protocol may be reviewed, suspended, rati-

fied, acceded to, denounced or extended in accordance with those provisions independently from the Agreement.

2. The present Protocol may be supplemented by bilateral agreement between the receiving State and a Supreme Headquarters, and the authorities of a receiving State and a Supreme Headquarters may agree to give effect, by administrative means in advance of ratification, to any provisions of this Protocol or of the Agreement as applied by it.

MS-D(52) 6 (Revise)

Protocol on the Status of Allied Headquarters—Revised Draft (5 May 1952)¹

Draft Protocol on the Status of Allied Headquarters set up pursuant to the North Atlantic Treaty

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949,

Considering that international military Headquarters may be established in their territories, by separate arrangement, under the North Atlantic Treaty, and

Desiring to define the status of such Headquarters and of the personnel thereof within the North Atlantic Treaty area,

Have agreed to the present Protocol to the Agreement signed in London on 19th June, 1951, regarding the Status of their Forces:

ARTICLE 1

In the present Protocol the expression

- (a) "the Agreement" means the Agreement signed in London on 19th June, 1951, by the Parties to the North Atlantic Treaty regarding the Status of their Forces;
- (b) "Supreme Headquarters" means Supreme Headquarters Allied Powers in Europe or any equivalent military Headquarters set up pursuant to the North Atlantic Treaty and having an international budget;
- (c) "Allied Headquarters" means any Supreme Headquarters and any military Headquarters set up pursuant to the North Atlantic Treaty which is subordinate to a Supreme Headquarters and which operates with funds provided under an international budget;

¹ Reference: MS-D(52) 6 (27 March 1952) for previous text; MS-D(52) 9 (24 May 1952) for comments by Governments and SACLANT; MS-R(52) 7 (4-5 June 1952) for discussion of the present text.

- (d) "North Atlantic Council" means the Council established by Article 9 of the North Atlantic Treaty or any of its subsidiary bodies authorised to act on its behalf.

ARTICLE 2

Subject to the following provisions of this Protocol, the Agreement shall apply to Allied Headquarters in the territory of a Party to the present Protocol in the North Atlantic Treaty area, and to the military and civilian personnel of such Headquarters and their dependents included in the definitions in sub-paragraphs (a), (b) and (c) of Article 3 of this Protocol, when such personnel are present in any such territory in connection with their official duties or, in the case of dependents, the official duties of their spouse or parent.

ARTICLE 3

For the purpose of applying the Agreement to an Allied Headquarters the expressions "force," "civilian component," and "dependent," wherever they occur in the Agreement shall have the meanings set out below:

- (a) "force" means the personnel attached to the Allied Headquarters who belong to the land, sea or air armed services of any Party to the North Atlantic Treaty;
- (b) "civilian component" means civilian personnel who are not stateless persons, nor nationals of any State which is not a Party to the Treaty, nor nationals of, nor ordinarily resident in, the receiving State, and who are (i) attached to the Allied Headquarters and in the employ of an armed service of a Party to the North Atlantic Treaty or (ii) in such categories of civilian personnel in the employ of the Allied Headquarters as the North Atlantic Council shall decide;
- (c) "dependent" means the spouse of a member of a force or civilian component, as defined in sub-paragraphs (a) and (b) of this Article, or a child of such member depending on him or her for support.

ARTICLE 4

The rights and obligations which the Agreement gives to or imposes upon the sending State or its authorities in respect of its forces or their civilian components or dependents shall, in respect of an Allied Headquarters and its personnel and their dependents to whom the Agreement applies in accordance with Article 2 of the present Protocol, be vested in or attached to the appropriate

Supreme Headquarters and the authorities responsible under it, except that

- (a) the right which is given by Article VII of the Agreement to the military authorities of the sending State to exercise criminal and disciplinary jurisdiction shall remain vested in the military authorities of the State, if any, to whose military law the person concerned is subject;
- (b) the obligations imposed upon the sending State or its authorities by Article II, paragraph 4 of Article III, paragraphs 5(a) and 6(a) of Article VII, paragraphs 9 and 10 of Article VIII, and Article XIII, of the Agreement, shall attach both to the Allied Headquarters and to any State whose armed service, or any member or employee of whose armed service, or the dependent of such member or employee, is concerned;
- (c) for the purposes of paragraphs 2(a) and 5 of Article III, and Article XIV, of the Agreement, the sending State shall be, in the case of members of a force and their dependents, the State to whose armed service the member belongs, or, in the case of members of a civilian component and their dependents, the State, if any, by whose armed service the member is employed;
- (d) the obligations imposed on the sending State by virtue of paragraphs 6 and 7 of Article VIII of the Agreement shall attach:
 - (i) to the State to whose armed service the person whose act or omission, or the vehicle whose unauthorized use, has given rise to the claim belongs, or
 - (ii) in the case of a member of a civilian component, the State by whose armed service he is employed, or
 - (iii) if there is no such State under (i) or (ii), the Allied Headquarters of which the person concerned is a member or to which the vehicle concerned belongs.

Both the State, if any, to which obligations attach under this paragraph and the Allied Headquarters concerned shall have the rights of the sending State in connection with the appointment of an arbitrator under paragraph 8 of Article VIII.

ARTICLE 5

Every member of an Allied Headquarters shall have a personal identity card issued by the Headquarters showing names, date and place of birth, nationality, rank or grade, registration number,

photograph and period of validity. This card must be presented on demand.

ARTICLE 6

For the purposes of paragraph 10 of Article VII of the Agreement, Allied Headquarters may use their own military police.

ARTICLE 7

1. For the purposes of paragraphs 1 and 2 of Article VIII of the Agreement:

- (a) property owned by an Allied Headquarters or by a Party to this Protocol and used by an Allied Headquarters shall be deemed to be property owned by a Contracting Party and used by its armed services;
- (b) damage caused by a member of a force or civilian component as defined in Article 3 of this Protocol or by any other employee of an Allied Headquarters shall be deemed to be damage caused by a member or employee of the armed services of a Contracting Party;
- (c) the definition of the expression "owned by a Contracting Party" in paragraph 3 of Article VIII shall apply in respect of an Allied Headquarters.

2. The claims to which paragraph 5 of Article VIII of the Agreement applies shall include claims (other than contractual claims and claims to which paragraphs 6 or 7 of that Article apply) arising out of acts or omissions of any employees of an Allied Headquarters, or out of any other act, omission or occurrence for which an Allied Headquarters is legally responsible, and causing damage in the territory of a receiving State to third parties, other than any of the Parties to this Protocol.

ARTICLE 8

An Allied Headquarters shall be considered to be a force for the purposes of paragraphs 2, 3, 4 and 8 of Article IX and paragraph 4 of Article XI of the Agreement.

ARTICLE 9

1. The exemption from taxation accorded under Article X of the Agreement to members of a force or civilian component in respect of their salaries and emoluments shall apply, as regards personnel of an Allied Headquarters within the definitions in paragraphs (a) and (b)(i) of Article 3, to salaries and emoluments paid to

them as such personnel by that Party, except that this paragraph shall not exempt any such member or employee from taxation imposed by a State of which he is a national.

2. Employees of an Allied Headquarters of categories agreed by the North Atlantic Council, shall be exempted from taxation on the salaries and emoluments paid to them by the Allied Headquarters in their capacity as such employees. Any such Party to the present Protocol may, however, conclude an arrangement with the Allied Headquarters whereby such Party will employ and assign to the Allied Headquarters all of its nationals (except, if such Party so desires, any not ordinarily resident within its territory) who are to serve on the staff of the Allied Headquarters and pay the salaries and emoluments of such persons from its own funds, at a scale fixed by it. The salaries and emoluments so paid may be taxed by the Party concerned but shall be exempt from taxation by any other Party. If such an arrangement is entered into by any Party to the present Protocol and is subsequently modified or terminated, Parties to the present Protocol shall no longer be bound under the first sentence of this paragraph to exempt from taxation the salaries and emoluments paid to their nationals.

ARTICLE 10

1. For the purpose of facilitating the establishment, construction, maintenance and operation of Allied Headquarters, these Headquarters shall be relieved, so far as practicable, from duties and taxes, and each Party to the present Protocol shall enter into negotiation with any Allied Headquarters operating in its territory for the purpose of concluding an agreement to give effect to this provision.

2. An Allied Headquarters shall have the rights granted to a force under Article XI of the Agreement subject to the same conditions.

3. The provisions in paragraphs 5 and 6 of Article XI of the Agreement shall not apply to nationals of the receiving State.

4. The expression "duties and taxes" in this Article does not include charges for services rendered.

ARTICLE 11

Except insofar as the North Atlantic Council may decide otherwise:

- (a) any assets acquired from the international funds of an Allied Headquarters under its capital budget and no longer required

by the Headquarters shall be disposed of under arrangements approved by the North Atlantic Council and the proceeds shall be distributed among or credited to the Parties to the North Atlantic Treaty in the proportions in which they have contributed to the capital costs of the Headquarters.

- (b) any land, buildings or fixed installations provided for the use of an Allied Headquarters by the receiving State without charge to the Headquarters (other than a nominal charge) and no longer required by the Headquarters shall be handed back to the receiving State, and any increase or loss in the value of the property provided by the receiving State resulting from its use by the Headquarters shall be determined by the North Atlantic Council and distributed among or credited or debited to the Parties to the North Atlantic Treaty in the proportions in which they have contributed to the capital costs of the Headquarters.

ARTICLE 12

Each Supreme Headquarters shall possess juridical personality; it shall have the capacity to conclude contracts and to acquire and dispose of property. The receiving State may, however, make the exercise of such capacity subject to special arrangements between it and the Supreme Headquarters or any subordinate Allied Headquarters acting on behalf of the Supreme Headquarters.

ARTICLE 13

1. Subject to the provisions of Article VIII of the Agreement, a Supreme Headquarters may engage in legal proceedings as claimant or defendant. However, the receiving State and the Supreme Headquarters or any subordinate Allied Headquarters authorised by it may agree that the receiving State shall act on behalf of the Supreme Headquarters in any legal proceedings to which that Headquarters is a party before the courts of the receiving State.

2. No measure of execution or measure directed to the seizure or attachment of its property or funds shall be taken against any Allied Headquarters, except for the purposes of paragraph 6(a) of Article VII and Article XIII of the Agreement.

ARTICLE 14

1. To enable it to operate its international budget, an Allied Headquarters may hold currency of any kind and operate accounts in any currency.

2. The Parties to the present Protocol shall, at the request of a Supreme Headquarters, facilitate transfers of the funds of an Allied Headquarters from one country to another and the conversion of any currency held by an Allied Headquarters into any other currency, when necessary to meet the requirements of any Allied Headquarters.

ARTICLE 15

The archives and other official documents of an Allied Headquarters kept in premises used by those Headquarters or in the possession of any properly authorised member of the Headquarters shall be inviolable, unless the Headquarters has waived this immunity. The Headquarters shall, at the request of the receiving State and in the presence of a representative of that State, verify the nature of any documents to confirm that they are entitled to immunity under this Article.

ARTICLE 16

1. The whole or any part of the present Protocol or of the Agreement may be applied, by decision of the North Atlantic Council, to any military organisation (other than an Allied Headquarters) which is established pursuant to the North Atlantic Treaty and operates with funds provided under an international budget.

2. If and when the European Defence Community comes into being, the present Protocol may be applied to the personnel of the European Defence Community and their dependents attached to an Allied Headquarters at such time and in such manner as may be determined by the North Atlantic Council.

ARTICLE 17

All differences between the Parties to the present Protocol or between any such Parties and any Allied Headquarters relating to the interpretation or application of the Protocol shall be settled by negotiation between the parties in dispute without recourse to any outside jurisdiction. Except where express provision is made to the contrary in the present Protocol or in the Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council.

ARTICLE 18

1. Articles XV and XVII to XX of the Agreement shall apply as regards the present Protocol as if they were an integral part thereof,

but so that the Protocol may be reviewed, suspended, ratified, acceded to, denounced or extended in accordance with those provisions independently from the Agreement.

2. The present Protocol may be supplemented by bilateral agreement between the receiving State and a Supreme Headquarters, and the authorities of a receiving State and a Supreme Headquarters may agree to give effect, by administrative means in advance of ratification, to any provisions of this Protocol or of the Agreement as applied by it.

In witness whereof the undersigned Plenipotentiaries have signed the present Protocol.

Done in Paris this ----- day of -----, 1952, in the English and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

MS-D(52) 7

Status of Forces Agreement—Memorandum by Italy on the Marking of Service Vehicles (24 April 1952)¹

1. The Agreement on the Status of Military Forces, in Article V, par. 2, states that service vehicles of a force or civilian component shall carry, in addition to their registration number, a distinctive nationality mark.

2. The Italian Government feels that, while the enforcement of the said Agreement throughout the NATO countries is still pending, steps should be taken in order that motor vehicles' registration numbers and nationality marks be communicated as from now by Allied Headquarters and by the sending States to the receiving States.

3. The measure recommended would serve the purpose of enabling the traffic officers of the receiving State to identify NATO motor vehicles and thereby:

- (a) cooperate with the Headquarter's military police in order that local traffic regulations be abided by;
- (b) give NATO vehicles all possible assistance and traffic priority, when requested for military purposes.

4. The Italian Delegation has therefore been directed to request that the Juridical Working Party, in referring to the Council

¹ See MS-R(52) 6 (2-3 May 1952). Paragraph numbers in the above document have been added by the editor.

Deputies the proposal outlined above, advise them to endorse it and transmit it to the Governments and to the proper military authorities for action.

D-D(52) 77(F)

Reorganization of NATO—Transfer of Powers Vested in Chairman of Council Deputies under Status Agreements (12 May 1952)

Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff

AGREED MINUTE

The North Atlantic Council Deputies,

Considering that under the Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff, signed at Ottawa on the 20th September, 1951, certain functions are vested in the Chairman of the Council Deputies;¹

And considering that, in consequence of the reorganization of the North Atlantic Treaty Organization, the office of Chairman of the Council Deputies will be abolished on the 4th April 1952;

Agree on behalf of their Governments that the said functions shall from that date be exercised by the Secretary-General of the Organization, or in his absence by his Deputy, or by such other person as the North Atlantic Council may decide.

Dated this fourth day of April, 1952.

[There follow the signatures of the Deputies for Belgium, Canada, Denmark, France, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, United Kingdom and United States.]

MS-D(52) 8

Status of Forces Agreement—Memorandum by the United States Delegation on Implementation (20 May 1952)

Memorandum by United States Delegation

* * * * *

3. After discussion of D-D(52) 48(R) with other members of the Working Group, the United States is now prepared to restate its position in Section A, paragraph 1, of that paper, as follows:

¹ For these functions, see the following Articles of the Agreement; Article 1(d); Article 5; Article 17; Article 20; Article 21, par. 2; Article 22. The transfer of functions would appear also to be applicable to Article VIII, par. 2(b), of the Status of Forces Agreement.

“The United States wishes to continue the existing arrangements with most countries on service post exchanges, commissaries or similar establishments and to reserve the right to deal directly with individual NATO member States on this subject. We do not consider that anything in the Agreement constitutes a renunciation of present understandings or the right to negotiate in the future on this subject.”

4. Also, the United States is now prepared to withdraw from discussion in the multilateral NATO framework the points raised in Section A, paragraph 3, of D-D(52) 48 (Revise) and to take these questions up in bilateral negotiations as provided in Article IX, paragraph 3, of the Military Status Agreement.

5. We are anxious to have an early expression of the views of the other countries on D-D(52) 48 (Revise), Section A, paragraph 1, as restated above, paragraph 2 and paragraph 4, and suggest that such views might be communicated to us either directly or through the NATO Secretariat by 26 May.

6. The United States has indicated its intention to implement provisionally the first sentence of Article III, paragraph 1. As for all provisional implementation on our part, this can be done only within the framework of existing law. Within that framework, all visiting NATO forces will be exempt from all visa, passport, and immigration requirements, except that it is not possible entirely to avoid immigration inspection required under the Internal Security Act of 1950, insofar as it provides for exclusion from admission to the United States of any alien who is a member of any one of the following classes:

“Aliens who seek to enter the United States, whether solely, principally, or incidentally, to engage in activities which would be prejudicial to the public interest, or would endanger the welfare or safety of the United States;

“Aliens with respect to whom there is reason to believe that such aliens would, after entry, be likely to (A) engage in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activity subversive to the national security; (B) engage in any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unconstitutional means; or (C) organize, join, affiliate with, or participate in the activities of any organization which is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950.”

7. For the information of other delegations, we can now confirm

our earlier expectations that the Agreement will be submitted to the Senate in an effort to obtain its advice and consent, prerequisite to ratification, during the present session.

MS-D(52) 9

Protocol on the Status of Allied Headquarters—Comments by Governments and by SACLANT (24 May 1952)¹

I. Comments by the Italian Delegation.

ARTICLE 10

1. If the words “as far as practicable” are interpreted as meaning “within the framework of existing legislation,” this would appear to deprive paragraph 1 of this Article of its substance. This point should be clarified by the Working Group.

ARTICLE 11

2. The Italian Government could accept paragraph (a), subject to the insertion in this Article of a clause stipulating that the host country should have first option in the purchase of items no longer required by a Headquarters.

3. In paragraph (b), insert “temporarily” after the word “installations,” or amend to read: “provided for the temporary use of.” Replace the word “use” by “occupation.” After the word “determined,” insert the words “in accordance with the law of the receiving State,” as in Article 9, paragraph 2, of MS-D(52) 6.

II. Comments by the United Kingdom Delegation.

ARTICLE 4

4. In paragraph (d)(i), omit the words “or the vehicle whose unauthorised use.” If the user of the vehicle is a member of a force, then the State to whose armed service he belongs should be responsible. The same applies where the user is a member of the civilian component in the employ of an armed service of a State. In other cases, subparagraph (iii) of Article 4, paragraph (d), applies.

¹ Reference: MS-D(52) 6(R) (5 May 1952) for text under consideration; MS-R(52) 7 (4-5 June 1952) for discussion of text and of the comments made above. The order of these comments has been slightly re-arranged by the editor (the comments of the United States are found in an Addendum of 29 May 1952; those of Belgium and SACLANT, in an Addendum of 30 May 1952), and paragraph numbers have been added.

ARTICLE 8

5. The words “paragraph 4 of Article XI” should read: “paragraph 4 of Article XIII.” Paragraph 4 of Article XI is covered by Article 10, paragraph 2.

III. Comments by the United States Delegation.

ARTICLE 1

6. We are not entirely content with the references to international budgets in Article 1. We feel that this may lead to a result quite contrary to the intention of the Working Group since we cannot foresee future financing arrangements and it is already apparent that, as a result of infrastructure and other negotiations, many Headquarters will be internationally financed. We prefer to delete these references in subparagraphs (b) and (c) and to insert the word “international” before “military Headquarters” in (c). We are conscious that the present wording was devised having in mind that certain headquarters were partly national and partly international. We do not, however, see any difficulty in establishing that the Protocol applies to the international part and that the national part cannot be considered international and thus incur rights and obligations under the Protocol.

ARTICLE 7

7. The International Court of Justice has given an advisory opinion concerning reparations for injuries suffered in the service of the United Nations in which the right of the United Nations to assert international claims as a result of injury to its personnel is recognized. There seems to be some possibility of an analogy being drawn between the Headquarters covered in the Protocol and the United Nations, and we believe the record should state agreement that the rights and obligations attached to a Headquarters by Article 4 of the Protocol include the waiver of such claims by or against Headquarters. In this connection, we note that Article 7 of the draft Protocol provides for waiver of claims as under Article VIII, paragraph 1, and [we] believe that it would be in line with this for the record to show that claims as under Article VIII, paragraph 4, are also waived.

ARTICLE 8

8. We feel that Article 8 of the Protocol as now drafted does not cover all points in which a headquarters should be considered a “force” under the Agreement, and [we] propose the following amendment:

An Allied Headquarters shall be considered to be a force for the purposes of Article II, paragraph 2 of Article V, Article IX (or, if others prefer, paragraphs 2, 3, 4, 5, 7 and 8 of Article IX), and Article XIII.

9. For purely drafting reasons, we suggest adding to the provisions cited in the above text: "paragraph 10 of Article VII, and Article XI." This would permit deletion of Article 6 and paragraph 2 of Article 10 of the present draft of the Protocol.

10. We suggest that this amended Article might be incorporated into Article 3 of the Protocol.

ARTICLE 9

11. In paragraph 1, substitute "the armed service to which they belong or by which they are employed" for "that Party."

12. In paragraph 2 at the beginning of the second sentence, delete the word "such."

ARTICLE 10

13. The United States has noted the comments made at the last meeting on its interpretation of Article 10. We do not find it necessary now to press for discussion of views beyond that which took place at the earlier meetings of the Working Group. The United States accepts the interpretations put on record by the French Representative at our last meeting.

14. It seems to us that paragraph 8 of Article 10 goes a little bit too far. We suggest that there should be added to the present text the words: "unless such nationals belong to the armed services of a Party other than the receiving State." With this addition the Protocol would be consistent with the Agreement itself.

ARTICLE 11

15. In connection with subparagraph (b) of Article 11, the United States would wish to put on record its view that, in agreeing on any principle for the distribution of the increase or loss in value of land, buildings or fixed installations used by an Allied Headquarters, no precedent will be set for similar determinations in other connections.

IV. Comments of the Belgian Delegation.

ARTICLE 9

16. In paragraph 1, add the following: "The exemption referred to in the present Article shall be granted to members of a force

only if their pay and allowances are taxable in a State other than the receiving State.”

Motive. Members of a force attached to a Headquarters will not be exempted from taxation on their pay if they are nationals of the receiving State in implementation of Article 4 of the Convention. Thus, a French soldier posted to a Headquarters in France would pay French income tax. But a Belgian living or normally resident in France, who, in his capacity as a Belgian soldier, is posted to a Headquarters in France, would be exempt from Belgian income tax. It would therefore not be right to exempt him from taxation in France.

17. Add the following new paragraph to Article 9 of the Protocol:

The Allied Headquarters shall provide the State concerned with any necessary information in respect of taxation on emoluments paid by them (amount of emoluments, identity, civilian status, dependents and last domicile of beneficiaries in their home State). If requested, they shall render the said State any assistance with respect to collection of the tax.

ARTICLE 10

18. In paragraph 1, for the words “so far as practicable,” substitute the words: “in so far as is necessary for the normal performance of their duties.

19. Add the following new paragraph to Article 10:

The exemption from duties and taxes considered or provided for in paragraphs 1 and 2 of the present Article shall be granted to Allied Headquarters only for their purchases, imports and exports for the official and exclusive use of these Headquarters.

ARTICLE 14

20. Add the following to paragraph 2 of Article 14:

Should implementation of the stipulations in the present paragraph be rendered difficult by certain provisions in their respective currency regulations, consultations shall be held between the Governments concerned and the Supreme Headquarters.

V. Comments of SACLANT.

ARTICLE 1

21. In paragraph (b), after the word “Europe” add: “and Headquarters of the Supreme Allied Commander Atlantic.”

ARTICLE 10

22. Change the numbering of paragraphs 2, 3 and 4, to paragraphs 3, 4 and 5, respectively. Add a new paragraph 2 as follows:

2. The receiving State and an Allied Headquarters may by agreement fix the categories and quantities of imported goods which entitled persons may procure from the appropriate sales agencies of Allied Headquarters. In the absence of agreement covering this subject each Headquarters shall regulate such sales by reasonable regulations.

ARTICLE 12

23. Delete the whole present Article, and substitute new wording as follows:

Each Supreme Headquarters shall possess the capacity: (a) to contract; (b) to acquire and dispose of real and personal property; (c) to institute and defend legal proceedings. The receiving State may, however, make the exercise of such capacity subject to special arrangements between it and the Supreme Headquarters or any subordinate Allied Headquarters acting on behalf of the Supreme Headquarters.

ARTICLE 13

24. Delete paragraph 1, since this subject matter is included in the suggested change of Article 12.

ARTICLE 14

25. Change paragraph 2 to become paragraph 3. Add a new paragraph 2, as follows:

2. In order that surplus or idle international funds may produce income, authority is granted an Allied Headquarters to invest surplus portions of such funds in callable securities under the general rules applicable to the investment of trust funds.

NEW ARTICLE

26. Change the present numbering of Articles 16, 17 and 18, to read as Articles 17, 18 and 19, respectively. Add a new Article 16, as follows:

16. Any Supreme Allied Commander and the principal members of his staff, to be designated by him but not to extend below division level, shall, while present in the territory of any member State of which such person is not a national for the dis-

charge of his duties, enjoy the following privileges and immunities:

- (a) immunity from personal arrest and detention;
- (b) in respect of acts done in his official capacity, immunity from legal process;
- (c) inviolability of all papers and documents;
- (d) such privileges and immunities as are accorded foreign Governments, in so far as concerns customs duties and internal revenue taxes imposed upon or by reason of importation, and the procedures in connection therewith; the registration of foreign agents; and the treatment of official communications.

C-M(52) 30

Protocol on the Status of Allied Headquarters—Final Draft and Report of Chairman of Working Group (7 June 1952)¹

Report by the Chairman of the Working Group

1. I have the honor to submit to the council the attached draft Protocol (Annex A) on the status of International Military Headquarters set up pursuant to the North Atlantic Treaty, which has been prepared by the Working Group on Military Status.

2. The purpose of the Protocol is to extend to international military Headquarters set up pursuant to the Treaty the provisions of the Status of Forces Agreement signed in London on 19 June 1951, which regulates the status of the national forces of one NATO member in the territory of another member. It also contains in Articles 8 to 13 certain additional provisions which have no parallel in the Status of Forces Agreement but which the Working Group considers to be desirable in regard to an international Headquarters.

3. The Protocol will apply automatically to SHAPE, SACLAN and equivalent Headquarters and to other international Headquarters immediately subordinate to them: see the definitions in Article 1 (b) and (c). Provision is made in Article 14(1) for its extension, by decision of the Council, to other international military Headquarters and organizations established pursuant to the Treaty. The reason why the Working Group came to the conclusion that it was advisable not to make the Protocol automatically applicable to Head-

¹ Reference: MS-D(52) 6(R) (5 May 1952) for previous text; and for discussion of the present text: C-R(52) 14 (2 July 1952); MS-D(52) 10 (2 July 1952); MS-R(52) 8-9 (3 and 10 July 1952); C-M(52) 56 (25 July 1952).

quarters other than those within the definitions in Article 1 (b) and (c) is that below the level of the subordinate Headquarters referred to in Article 1(c) some Headquarters are only partially international and it is preferable to consider each case on its merits.

4. In the case of SHAPE and its subordinate Headquarters, according to the present set-up, the Protocol would apply automatically to:

SHAPE

Headquarters Allied Land Forces Central Europe

Headquarters Allied Air Forces Central Europe

Headquarters Flag Officer Central Europe

Headquarters Allied Forces Southern Europe

Headquarters Allied Forces Northern Europe.

The Working Group recommends that the Council should decide to extend the Protocol under Article 14(1) to the following:

Headquarters Allied Air Forces Northern Europe

Headquarters Allied Naval Forces Northern Europe

Headquarters Allied Land Forces Southern Europe

Headquarters Allied Air Forces Southern Europe

Headquarters Allied Naval Forces Southern Europe.

A form of resolution is attached for this purpose (Annex B).²

Headquarters Allied Land Forces Norway and Headquarters Allied Land Forces Denmark are not included in this recommendation because they are essentially national and not international and the small international element attached to the latter can be treated as a detachment of Headquarters Allied Forces Northern Europe.

5. The Working Group suggests that the Secretariat should be asked to submit proposals on similar lines regarding the application of the Protocol to the subordinate headquarters of SACLAN. The only international military organization (other than Headquarters) existing at present to which the Council will wish to consider extending the Protocol under Article 14(1) is the NATO Defense College in Paris, and the Working Group suggests that the Standing Group should be asked for its view on this point. . .

6. With two exceptions, the text of the draft Protocol was unanimously accepted by the Working Group. It represents a carefully weighed balance of interests and to this end involved concessions on the part of all concerned. The Working Group expressed the hope that, bearing this in mind, all NATO Governments would accept the instrument without reservation in its present form, though no representative on the Working Group was

² Annex B has been omitted; its text is identical with that of Annex B in C-M(52) 56 (25 July 1952).

able to commit his Government before it had had an opportunity to examine the final text.

7. The two exceptions to the unanimous agreement of the Working Group on the text are Articles 7 and 8. Article 7 provides for income tax exemptions to be granted to the members of international military Headquarters. Their members fall into three categories:

- (1) military personnel who belong to the armed services of the States Parties to the North Atlantic Treaty and who are attached to the Headquarters for duty;
- (2) civilian personnel employed by such armed services who are attached to the Headquarters for duty; and
- (3) civilian personnel directly employed by the Headquarters.

The first two categories will be paid by the armed services of which they are members or by which they are employed and therefore can be assimilated for income tax purposes to the members of the national forces and their civilian components, to whom the Status of Forces Agreement itself applies. The third category can be assimilated to the international staff of NATO and should therefore be subject to the regime set out in Article 19 of the Agreement on the Status of NATO, National Representatives and International Staff, signed in Ottawa on 20 September 1951. The difference is that States are free to tax their own nationals in categories (1) and (2), but not those in category (3) unless they make a special arrangement for that purpose under paragraph 2 of Article 7 of the Protocol. The Canadian Representative in the Working Group stated that his Government had only accepted Article 19 of the Ottawa Agreement with reluctance and he was unable to accept paragraph 2 of Article 7 of the Protocol. The remaining members of the Working Group said that their Governments could accept Article 7 (some of them reluctantly). On the other hand, the alternative of deleting paragraph 2 and extending paragraph 1 to apply to the third category of personnel referred to above was unacceptable to the United States Government and, on balance, the present text of Article 7 appeared to command the greater measure of support. No compromise solution was found possible. The Canadian Representative in the Working Group was asked to inform his Government of the discussion on this Article and to invite them to reconsider their attitude with a view to reaching unanimous agreement.

8. The Netherlands and Belgian Representatives in the Working Group stated that they were unable to give the agreement of their Governments to paragraph 1 of Article 8. They proposed to sub-

stitute a paragraph on the lines of Article 10 of the Ottawa Agreement. This proposal was, however, unacceptable to the United States Government because of the terms of the Mutual Security Act, and the Netherlands and Belgian Representatives agreed to ask their Governments to reconsider the matter. Several amendments were made to the text of Article 8 in order to meet some of the objections of those and other Governments to it.

9. The Working Group wishes to call the attention of the Council to the following points which were raised in the discussion on the Protocol:

- (a) The Representative of the French Government urged that a provision be included which would make it possible for Supreme Headquarters to establish an integrated military post office or postal service as an alternative to the national military post offices proposed by SHAPE. The Working Group considered that either solution raised certain difficulties which made it inadvisable to attempt to cover this subject in the present Protocol, and the Working Group therefore recommends that it be left to bilateral arrangements, subject to later consideration on an international basis if that appears necessary.
- (b) It was proposed that the Supreme Commander and the Commander-in-Chief directly subordinate to him be granted certain personal privileges analogous to those accorded to diplomatic personnel. This presented difficulties for certain Governments, and the Working Group agreed to leave this question to national arrangements.

10. The Working Group recommends that at the time of signature of the Protocol the Council should adopt a resolution similar to that adopted by the Council Deputies at the time of signature of the Status of Forces Agreement, recommending Governments to apply the Protocol provisionally so far as possible, pending ratification. A form of resolution for this purpose is attached to this report (Annex C).³

11. When the Treaty establishing the European Defense Community comes into force, it will be necessary for the Council to determine the manner in which the Protocol shall apply to members of the European Defense Force attached to international military Headquarters: see Article 24(2). It will also be necessary to draw up an additional Protocol defining the status of the European Defense

³ Annex C has been omitted; its text is identical with that of Annex C in C-M(52) 56 (25 July 1952).

Forces in North Atlantic Treaty countries, since they will not fall within the definition of "force" in Article I, par. 1(a) of the Status of Forces Agreement. If the Council agrees, the Working Group will in due course submit draft instruments for these purposes.

ANNEX A

Draft Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty

[The text of the Protocol in this Annex is identical, except for two minor variations noted in the footnote below,⁴ with the English text of the final printed version of the Protocol as signed in Paris on 28 August 1952].

MS-D(52) 10

Protocol on the Status of Allied Headquarters—Statements by the Canadian and Netherlands Representatives (2 July 1952)¹

I.—Statement by the Canadian Representative

On instruction from my Government, I can report that Canada can subscribe to the Protocol in its present form when it becomes open for signature, without reservation in respect of paragraph 2 of Article 7.

In reporting that the Protocol has been found acceptable by the Canadian authorities concerned, I am further directed to indicate that:

- (a) these authorities regard Canada's right to tax Canadian citizens resident or ordinarily resident in Canada as having been maintained by the provisions of par. 2 of Article 7 permitting a party to the Protocol to employ, pay and tax each member of the quota of its nationals serving on the Allied Headquarters, whether or not the Canadian Government avails itself of this provision; and
- (b) the acquiescence of the Canadian Government to par. 2 of

⁴ These two variations: (1) In Article 8, par. 1, the words "and for their official and exclusive use" are not found in C-M(52) 30 and appear only in the final text as signed; and (2) the draft Protocol above does not contain the date of signature nor the actual signatures. The final text is reproduced at page 43, *supra*.

¹ These statements are referred to in the Record of the Council meeting on 2 July 1952: C-R(52) 14, par. 20 (Canadian statement) and par. 25 (Netherlands statement). See also MS-R(52) 8-9 (3 and 10 July 1952).

Article 7 is not to be regarded as creating a precedent for any future arrangement concerning Canadian residents employed by an international organization.

II.—Statement by the Netherlands Representative

With regard to Article 12, par. 1, I bring to the Council's attention that the Netherlands Representative in the Budget Committee has tabled a proposal for an exchange rate guarantee to be given by each member country for funds held by NATO in one of their currencies. The Working Group, which prepared the draft Protocol now before us, being a meeting of legal experts, passed rather hurriedly over this matter, suggesting that it would be more appropriate for the Military Budget Committee to look into it.

In view of the quite considerable amounts involved in the existing and anticipated military budgets, especially after the extension of the scope of military budgets which is now under consideration and may at some future date be agreed upon to a greater or lesser extent, it would appear indispensable for the amounts held by NATO to be protected by a system of guarantees.

I suggest that the Council agree to ask the Budget Committee and Military Budget Committee to elaborate such a system for the whole of NATO at an early date.

The provision of par. 2 of Article 12 may in its practical application lead to some difficulties if it were left to the discretion of Allied Headquarters to convert particular countries' contributions into hard currencies. It would appear that the establishment of a procedure and general agreement on the question, to what extent such conversion can take place under this Protocol, is highly desirable.

I would suggest that, if an Allied Headquarters foresees that its expenditure in hard currency may be greater in any budgetary period than its hard currency revenue, the matter should be brought before the Military Budget Committee. Should the Military Budget Committee agree to the hard currency expenditure involved, the provision of such currency should be the joint responsibility of the other NATO countries in proportion to their contributions to the NATO budget for the expenditure in question.

I must reserve my position on the provision of Article 12 until such time as an arrangement has been agreed upon by the Military Budget Committee taking care of the two preoccupations of my Government. As soon as this is the case, I will notify the Secretariat of the withdrawal of my reservation and it will, I assume, not be necessary for the Council to consider the matter again.

C-M(52) 56

Protocol on the Status of Allied Headquarters—Report of the Chairman of the Working Group (25 July 1952)*Report of the Chairman of the Working Group*

1. I have the honor to inform the Council that, in accordance with the Council's decision at its meeting on 2 July,¹ the Working Group on Military Status has re-examined the text of the draft Protocol on International Military Headquarters contained in Document C-M (52) 30 in the light of the comments of member Governments. These comments related to Articles 7, 8 and 12 of the Protocol.

2. The Canadian Representative at the Working Group confirmed that his Government did not intend to make any reservation regarding Article 7 and would amend the wording of the statement read on their behalf to the Council on 2 July in order to clarify this intention. He informed the Working Group of the terms of the revised statement, and the Working Group is satisfied that it is entirely consistent with the provisions of Article 7.

3. The Netherlands Representative explained that his Government was reluctant to accept paragraph 2 of Article 7 for reasons which are set out fully in the Summary Records of the meeting of the Working Group. The Belgian and other Representatives expressed similar views on behalf of their Governments. After considerable discussion, the text of Article 7 in C-M(52) 30 was unanimously agreed. The Working Group recommends, however, that the question of exemption from income tax of the emoluments of the international staff of NATO and of NATO military Headquarters should be the subject of further study by experts and that the Brussels Treaty Permanent Committee (which has studied the matter) should be asked to make any useful documentation in its possession available to NATO.

4. The Working Group agreed that Article 8 of the draft Protocol in C-M(52) 30 should be amended by the addition of the words "and for their official and exclusive benefit" after "common defence" in line 5.

5. The Netherlands Representative explained to the Working Group certain reservations of his Government on Article 12. The Secretariat has since been informed that these reservations are withdrawn.

6. The Working Group endorses the recommendations of the

¹ C-R(52) 14, par. 19-26 (2 July 1952).

Standing Group set out in the Annex A to this Report regarding the application of the Protocol to the subordinate Headquarters of SACLANT. In fact, the Protocol will automatically apply to these Headquarters under Article 1(c), since they are all immediately subordinate to SACLANT. The Working Group also agrees with the Standing Group's recommendation that the Protocol should not be applied to the NATO Defense College.

7. Accordingly, the Working Group recommends:

- (a) that the Council should approve the draft Protocol in C-M (52) 30, with the amendment to Article 8 referred to in paragraph 4 above, and fix a date for signature;
- (b) that on the date of the signature of the Protocol the Council should formally adopt the two resolutions at Annexes B and C to this Report;
- (c) that the Protocol should not be applied to the NATO Defense College;
- (d) that the drafting of appropriate instruments to extend the Status of Forces Agreement and the Protocol to cover the European Defense Force and its members should be put in hand; [and]
- (e) that arrangements should be made for further study by experts of the question of exemption from income tax of the emoluments of the international staff of NATO and of NATO military Headquarters.

* * * * * *

ANNEX B

*Resolution on Application of the Protocol*²

The North Atlantic Council,

Having regard to paragraph 1 of Article 14 of the Protocol signed in Paris on the 28th August, 1952, on the Status of International Military Headquarters set up pursuant to the North Atlantic Treaty,

Decides that the Protocol shall apply to the following international military Headquarters in addition to those within the definitions in Article 1(b) and (c) of the Protocol:

Headquarters Allied Air Forces Northern Europe,
 Headquarters Allied Naval Forces Northern Europe,
 Headquarters Allied Land Forces Southern Europe,
 Headquarters Allied Air Forces Southern Europe,
 Headquarters Allied Naval Forces Southern Europe.

² Adopted by the Council on 20 August 1952: C-R(52) 18, par. 7.

ANNEX C

*Resolution on Implementation of the Protocol*³

The North Atlantic Council,

Considering that some provisions of the Protocol on the Status of International Military Headquarters set up pursuant to the North Atlantic Treaty, can be implemented by administrative action without the necessity for legislation, and that such implementation would be useful in the period before the Protocol is ratified,

Recommend that signatory States should give effect to the Protocol provisionally, pending ratification, to the maximum extent possible.

ISM(52) 31

Draft Agreement between the United States and NATO on the Employment of United States Nationals by International Military Headquarters (19 November 1952)¹

Agreement between the Government of the United States and the North Atlantic Council concerning the Employment by International Headquarters of United States Nationals

Since the Government of the United States desires to enter into an arrangement with International Military Headquarters, to which the Protocol to the Agreement between the Parties to the North Atlantic Treaty on the Status of their Forces on International Military Headquarters Set Up pursuant to the North Atlantic Treaty, signed at Paris on August 20, 1952,² applies, as provided in Article 7 of that Protocol, it is therefore agreed by the Government of the United States and the North Atlantic Council, acting on behalf of such Headquarters, as follows:

1. Whenever any International Military Headquarters desires the service of a United States national, it will notify the United States of: (A) the nature of the position to be filled, (B) the qualifications which an individual must possess to fill the position, and (C) the salary which such individual would receive if employed by the Headquarters. The Headquarters may notify the Government of the

³ Adopted by the Council on 20 August 1952: C-R(52) 18, par. 8.

¹ This Agreement is found attached to the Protocol on the Status of International Military Headquarters: 5 UST 870, TIAS 2978, 200 UNTS 340. Words enclosed in square brackets are found only in the final Agreement as signed, and not in the draft given in the International Staff Memorandum above.

² This should read: August 28, 1952.

United States of the name(s) of any individual(s) it deems acceptable for the position.

2. The Government of the United States may assign to the Headquarters a United States national from its Government service who is acceptable to the Headquarters. The Government of the United States will provide security clearance for the individual concerned.

3. The Government of the United States will pay any and all salaries and emoluments of United States nationals, who are employed by it and assigned to the Headquarters concerned, from its own funds at rates determined by the Government of the United States.

4. International Military Headquarters will not pay any salaries and emoluments of any citizens of the United States.

5. The amounts of salaries and emoluments which International Military Headquarters would otherwise have paid United States nationals for each fiscal year will be deducted from the amount assessed the Government of the United States in respect of the contribution of the Government of the United States to such Headquarters for the subsequent fiscal year..

6. [This Agreement has been executed in two originals, one to be retained by the Government of the United States, and one to remain with the North Atlantic Treaty Organization.]

In witness whereof, This Agreement is executed at Paris on [this twenty-fifth day of February, 1953] by The Right Honorable The Lord Ismay, G.C.B., C.H., D.S.O., Secretary General of the North Atlantic Treaty Organization, on behalf of the North Atlantic Council, and William H. Draper, Jr., United States Permanent Representative to the North Atlantic Council, on behalf of the Government of the United States.

C-M(53) 62

Protocol on the Status of Allied Headquarters—Implementation of Article 8: Tax Exemption for SHAPE and Subordinate Headquarters (5 May 1953)

Note by the Secretary-General and Vice-Chairman

On 31 December 1952, the Chief of Staff, SHAPE, addressed a memorandum to the Secretary-General (Annex A), concerning the implementation of Article 8, paragraph 1, of the Protocol on the Status of International Military Headquarters.

After preliminary examination by the International Staff, this memorandum was submitted to the Military Budget Committee for examination and report. The report of the Military Budget Committee is attached (Annex B).

The Council is asked to approve the recommendations contained in paragraph 3(a), (b) and (c) of the Report at Annex B.

ANNEX A

Subject: Tax Exemption for SHAPE and Subordinate Headquarters
 To: Secretary General
 North Atlantic Treaty Organization
 Palais de Chaillot,
 Paris

Reference: Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty

1. Article 8, par. 1, of reference provides that Allied Headquarters shall be relieved, as far as practicable, from duties and taxes affecting expenditures by them in the interest of common defense and for their official and exclusive benefit. This Article provided further that each party to the Protocol shall enter into negotiation with any Allied Headquarters operating on its territory for the purpose of concluding an agreement to give effect to this provision.

2. According to this provision, SHAPE took the responsibility of concluding an agreement with the French Government, covering also other Allied Headquarters located in France. As long as the negotiations relating to the Protocol on the Status of NATO Military Headquarters were still in course, the French Government could not accept the principle of a far-reaching exemption that might jeopardize the French position pending a decision. However, by letter dated 20 August 1952 (copy here attached), the French Government agreed that specific arrangements should be made for tax exemptions by administrative ways pending a formal bilateral agreement between SHAPE and the French Government.

3. As a result of this letter, a meeting was held on 9 September 1952 of SHAPE and French representatives to consider the matter. It was agreed that the answer of the French authorities would be forwarded to SHAPE. By letter dated 30 October 1952, the French Government agreed that SHAPE would enjoy exemption from the business turnover tax in the same way as was provided for in the case of expenditure in the interest of common defense under the Franco-American Agreement of 13 March and 13 June 1952. By letter dated December 1952, the French authorities further agreed that the exemption would be effective as of 1 November 1952. However, these letters pointed out that these privileges are subordinate to the condition that other Governments accept a clause of reciprocity, offering exemption for similar taxes to international Headquarters in other host countries.

4. The purchases of SHAPE being not limited to the host country, it would be necessary to conduct negotiations with all NATO countries with the additional requirement that all these agreements would have to be consistent with the reciprocity clause. Owing to political aspects of a reciprocal tax relief between France and other countries and also in view of the time which would be involved in negotiations, SHAPE does not consider itself in a position to undertake such negotiations.

5. It is deemed essential therefore that the suggested reciprocity clause be studied by a NATO committee of financial experts to recommend a practicable solution to implement Article 8 of the Protocol in all NATO countries.

6. Pending a solution, the practical agreements on the lines of the French letter dated 30 October 1952 will be made with the French authorities who have been requested, by letter, dated 20 December 1952, to call a joint meeting for this purpose.

For the Supreme Allied Commander Europe:

(Signed) Alfred M. Gruenther
General, U.S. Army
Chief of Staff

ANNEX B

Report of the NATO Military Budget Committee on Tax Exemption for International Military Headquarters

1. The Military Budget Committee has examined document AGO 732 of 31 December 1952 from Chief of Staff of SHAPE to the Secretary General on the application of Article 8 of the Protocol on the Status of NATO Headquarters, submitted with a memorandum dated 5 February 1953 by the Executive Secretary.

2. The Committee being aware of the several aspects to the problem of tax exemption for international military headquarters has undertaken its examination *from a strictly budgetary point of view only*.

3. On this basis the Committee submits the following recommendations:

- (a) Expenses incurred by NATO Military Agencies on the territories of member States should be exempted from all taxes or fees whatsoever. This would result in a noticeable reduction in the size of the international budget.
- (b) In view of the fact that local administrations in areas where international agencies are installed may have for that reason to incur expenses for roads, sewer systems, etc., which would

be out of proportion to their normal resources, local administrations may in such cases be reimbursed for such additional services. The nature and amount of such expenses should be determined by each agency after negotiation with the authorities concerned.

- (c) Exemptions from fees and taxes should be effective as of the dates of creation of the various NATO Military Agencies. However, if there should be difficulties in the application of this rule, 1 November 1952 should be considered as the date on which, in any case, the said exemptions would take effect.

4. The Committee wishes to express its satisfaction with the results already obtained by SHAPE in regard to the agreement reached with the French Government and, also, to express its appreciation of the spirit of cooperation shown by that Government.

5. The Committee recommends that the Council invite SHAPE to continue the negotiations with all Governments concerned on the basis of the recommendations contained in paragraph 3 above.

(Signed) G. Roggen

Chairman

NATO Military Budget Committee

C-M(53) 74

Protocol on the Status of Allied Headquarters—Tax Exemption for Allied Military Headquarters and Organizations (10 June 1953)

Note by the Deputy Secretary-General

1. After considering C-M(53) 62 (Tax Exemption for SHAPE and Subordinate Headquarters) on 20 May, the Council agreed that a note should be prepared by the Secretariat explaining the position of Allied Military Headquarters in regard to tax exemption and indicating the action required to be taken by the Council in this matter.

2. Article 8 of the Protocol on the Status of International Military Headquarters set up pursuant to the North Atlantic Treaty states:

“1. For the purpose of facilitating the establishment, construction, maintenance and operation of Allied Headquarters, these Headquarters shall be relieved, so far as practicable, from duties and taxes affecting expenditures by them in the interest of common defence and for their official and exclusive benefit, and each Party to the present Protocol shall enter into negotiations with any Allied Headquarters operating in its territory for the purpose of concluding an agreement to give effect to this provision.”

3. Article 1(c) of the Protocol defines "Allied Headquarters" as:
 "Any Supreme Headquarters and any International Military Headquarters set up pursuant to the North Atlantic Treaty which is immediately subordinate to a Supreme Headquarters."

4. In addition, Article 14 of the Protocol states:

"The whole or any part of the present Protocol or of the Agreement may be applied, by decision of the North Atlantic Council, to any International Military Headquarters or Organisation (not included in the definitions in paragraphs (b) and (c) of Article 1 of this Protocol) which is established pursuant to the North Atlantic Treaty."

The Council, acting in accordance with the terms of Article 14, has already agreed that the Protocol should apply to Headquarters Allied Air Forces Northern Europe, Headquarters Allied Naval Forces Northern Europe, Headquarters Allied Land Forces Southern Europe, Headquarters Allied Air Forces Southern Europe, Headquarters Allied Naval Forces Southern Europe.

5. SHAPE and the French Government have prepared an Agreement covering the other Allied Headquarters located in France which allows these Headquarters exemption from most indirect taxes, particularly the business turnover tax and the so-called "transaction tax." It is expected that this Agreement will be effective as of 1 November 1952. However, two points in the Agreement await amplification; this is why it has not yet been signed.

Moreover, the French Government is reluctant to make a definite commitment respecting Allied Headquarters situated on its soil until it has received an assurance that other Governments will allow Allied Headquarters in their countries benefits similar to those which the French Government is prepared to grant, more particularly with respect to tax exemptions.

Nevertheless, out of courtesy, the French Government has decided to apply most of the provisions of the Agreement even before its signature. Thus, since 1 November 1952, SHAPE has enjoyed the tax exemptions specified in the Agreement.

6. In order to facilitate and expedite the negotiations of SHAPE and other Supreme Headquarters with member Governments on the question of the relief from duties and taxes affecting expenditures made by them in the interests of common defense, the Council is invited:

- (a) to impress upon member Governments the importance, from the point of view of international budgets, of not imposing any taxes or duties on expenditures made in the interest of

common defense and, consequently, to recommend member Governments to grant to international military Headquarters exemption from taxes and duties to the widest possible extent. This principle should apply both to expenditures in the country where the Headquarters in question is located and to expenditures by such Headquarters in other member countries.

- (b) to note with satisfaction the progress of the negotiations made between the French Government and SHAPE, which negotiations were based on the existing tax exemption agreement between the French and United States Governments, and to draw the attention of member Governments to the fact that the French Government has already exempted SHAPE expenditures from the business turnover tax since 1 November 1952. The French Government, however, will continue to extend this privilege to SHAPE only if other Governments give international military Headquarters situated in other host countries tax exemption under similar conditions.
- (c) to emphasize the desirability of ensuring that agreements arrived at between member Governments and international military Headquarters on tax relief on expenditures for common defense should provide for a comprehensive system of tax exemption and, as far as possible, cover the equivalent taxes and duties.
- (d) to ask allied military commanders, responsible for negotiations with host Governments on tax exemptions, to keep the following considerations in mind:
 - (i) exemptions from duties and taxes should be effective as of the dates of creation of the various NATO International Military Headquarters. However, if there should be difficulties in the application of this rule, 1 November 1952 should be considered as the date on which the said exemptions would take effect.
 - (ii) in view of the fact that local administrations in areas where allied headquarters are installed may have for that reason to incur expenses for roads, sewer systems, etc., which would be out of proportion to their normal resources, local administrations may in such cases be reimbursed for such additional services. The nature and amount of such expenses should be determined by each allied headquarters after negotiation with the authorities concerned.

Parallel Table for Texts of SOFA 1

Final Text 6/19/1951	Brussels Stat. 12/21/ 1949	D-D(51) 23	MS-D (51)5	MS-D (51)9	MS-D (51)11	MS-D(51) 11(R)	MS-D(51) 11(2R)	D-D(51) 57	MS-D(51) 28	D-D(51) 127	D-D(51) 138
Title	Title	Title	Preamble			Title	Title	Title	Title	Title	Title
Preamble	Preamble	Preamble	I(a)		Preamble	Preamble	Preamble	Preamble	Preamble	Preamble	Preamble
I, 1(a)	1(a), 1(d)	I(a)	I(a)		I(a)	I(a)	I(a)	I(a)	I(a)	I, 1(a)	I, 1(a)
I, 1(b)		I(a)	I(b)		I(b)	I(b)	I(b)	I(b)	I(b)	I, 1(b)	I, 1(b)
I, 1(c)		I(d)	I(c)		I(c)	I(c)	I(c)	I(c)	I(c)	I, 1(c)	I, 1(c)
I, 1(d)	1(b)	I(b)	I(d)		I(d)	I(d)	I(d)	I(d)	I(d)	I, 1(d)	I, 1(d)
I, 1(e)	1(c)	I(c)	I(e)		I(e)	I(e)	I(e)	I(e)	I(e)	I, 1(e)	I, 1(e)
I, 1(f)			I(f)		I(f)	I(f)	I(f)	I(f)	I(f)	I, 1(f)	I, 1(f)
I, 1(g)									I(g)	I, 1(g)	I, 1(g)
I, 2										I, 2	I, 2
II	2				II	II	II	II	II	II	II
III, 1	7(1)	VI, 1	VI, 3		III, 1	III, 1	III, 1	III, 1	III, 1	III, 1	III, 1
III, 2	3(1)	II, 1	II, 1		III, 2	III, 2	III, 2	III, 2	III, 2	III, 2	III, 2
III, 3	3(2)	II, 2	II, 2		cf. III, 1-2	III, 3	III, 3	III, 3	III, 3	III, 3	III, 3
III, 4		II, 1-2	II, 1-2			III, 4	III, 4	III, 4	III, 4	III, 4	III, 4
III, 5						III, 5	III, 5	III, 5	III, 5	III, 5	III, 5
IV	4	III	III		IV	IV	IV	IV	IV	IV	IV
V	5	IV	IV		V	V	V	V	V	V	V
VI	6(1-2)	V	V		VI	VI	VI	VI	VI	VI	VI
	6(3)										
VII, 1(a)	cf. 7(2) [d]	VI, 1-3, 5	VI, 1		VII, 1	VII, 1(a)	VII, 1(a)	VII, 1(a)	VII, 1(a)	VII, 1(a)	VII, 1(a)
VII, 1(b)	cf. 7(2) [a]	VI, 2-3	VI, 4		VII, 3	VII, 1(b)	VII, 1(b)	VII, 1(b)	VII, 1(b)	VII, 1(b)	VII, 1(b)
VII, 2(a)		VI, 2-3	VI, 2		VII, 2	VII, 2	VII, 2	VII, 2	VII, 2(a)	VII, 2(a)	VII, 2(a)

¹ The final printed text, signed on 19 June 1951, was distributed as D-D(51) 138(F). This text is reproduced at p. 13. The text contained in D-D(51) 138 (1 June 1951) is identical with the final text with the exceptions noted in D-D(51) 138. *Parallel references in this table do not necessarily indicate that the texts are identical, but only that the same subject matter is treated in the Article or paragraph referred to.*

Parallel Table for Texts of SOFA 1—Continued

Final Text	Brussels Stat.	D-D(51) 23	MS-D (51)5	MS-D (51)9	MS-D (51)11	MS-D (51) 11(R)	MS-D (51) 11(2R)	D-D (51)57	MS-D (51)28	D-D (51)127	D-D (51)138
6/19/1951	12/21/ 1949	1/23/1951	2/12/1951	2/16/1951	2/19/1951	2/20/1951	2/24/1951	2/28/1951	4/27/1951	5/7/1951	6/1/1951
VII, 2(b)		VI, 2-3	VI, 4		VII, 3	VII, 2	VII, 2	VII, 2	VII, 2(b)	VII, 2(b)	VII, 2(b)
VII, 2(c)		VI, 2(c)	VI, 2		VII, 2	VII, 2	VII, 2	VII, 2	VII, 2(c)	VII, 2(c)	VII, 2(c)
VII, 3(a)	cf.7(2) [c]	VI, 2-3	VI, 4		VII, 3	VII, 3(a)	VII, 3(a)	VII, 3(a)	VII, 3(a)	VII, 3(a)	VII, 3(a)
VII, 3(b)	cf.7(2) [a, c]	VI, 2-3	VI, 5		VII, 4	VII, 3(b)	VII, 3(b)	VII, 3(b)	VII, 3(b)	VII, 3(b)	VII, 3(b)
VII, 3(c)	cf.7(2) [b-c]	VI, 2-3	VI, 4-5		VII, 3-4	VII, 3(c)	VII, 3(c)	VII, 3(c)	VII, 3(c)	VII, 3(c)	VII, 3(c)
VII, 4									VII, 4	VII, 4	VII, 4
VII, 5(a)	7(4), 7(5) (b)	VI, 8	VI, 6		VII, 6	VII, 5	VII, 5	VII, 5(a)	VII, 6(a)	VII, 5(a)	VII, 5(a)
VII, 5(b)	cf.7(4)	VI, 3	VI, 5		VII, 4	VII, 5	VII, 5	VII, 5(b)	VII, 6(b)	VII, 5(b)	VII, 5(b)
VII, 5(c)	cf.7(4), 7(5)(b)					VII, 5	VII, 5	VII, 5(c)	VII, 6(c)	VII, 5(c)	VII, 5(c)
VII, 6(a)	7(3)	VI, 8	VI, 6		VII, 6	VII, 6	VII, 6	VII, 6(a)	VII, 7(a)	VII, 6(a)	VII, 6(a)
VII, 6(b)					VII, 6	VII, 6	VII, 6	VII, 6(b)	VII, 7(b)	VII, 6(b)	VII, 6(b)
VII, 7(a)					VII, 1	VII, 4	VII, 4	VII, 4	VII, 5	VII, 7(a)	VII, 7(a)
VII, 7(b)									VII, 6(d)	VII, 7(b)	VII, 7(b)
VII, 8			VI (Add.)		VII, 5	VII, 7	VII, 7	VII, 7	VII, 8	VII, 8	VII, 8
VII, 9		VI, 4	VI, 7		VII, 7	VII, 8	VII, 8	VII, 8	VII, 9	VII, 9	VII, 9
VII, 10	7(5) (a-b, d)	VI, 9	VI, 8		VII, 8	VII, 9	VII, 9	VII, 9	VII, 10	VII, 10	VII, 10
VII, 11	7(5)(c)										
VIII, 1	cf.8(2)	VI, 7	VI, 9		VII, 9	VII, 10	VII, 10	VII, 10	VII, 11	VII, 11	VII, 11
VIII, 2(a)	8(6)	cf.VII(3)				VIII, 1	VIII, 1	VIII, 1(a)	VIII, 1	VIII, 1	VIII, 1
		cf.VII, 3				VIII, 2	VIII, 2	VIII, 2	VIII, 2(a)	VIII, 2(a)	VIII, 2(a)

Parallel Table for Texts of SOFA 1—Continued

Final Text	Brussels Stat. 12/21/ 1949	D-D (51) 23 1/23/1951	MS-D (51) 5 2/12/ 1951	MS-D (51) 9 2/16/1951	MS-D (51) 11 2/19/1951	MS-D (51) 11 (R) 2/20/1951	MS-D (51) 11 (2R) 2/24/1951	D-D (51) 57 2/28/1951	MS-D (51) 28 4/27/1951	D-D (51) 127 5/7/1951	D-D (51) 138 6/1/1951
6/19/1951											
VIII, 2 (b)	8 (6)					VIII, 2	VIII, 2	VIII, 2	VIII, 2 (b)	VIII, 2 (b)	VIII, 2 (b)
VIII, 2 (c)									VIII, 2 (c)	VIII, 2 (c)	VIII, 2 (c)
VIII, 2 (d)	cf. 8 (3, 6)								VIII, 2 (d)	VIII, 2 (d)	VIII, 2 (d)
VIII, 2 (e)									VIII, 2 (e)	VIII, 2 (e)	VIII, 2 (e)
VIII, 2 (f)	cf. 8 (6)					VIII, 2	VIII, 2	VIII, 2	VIII, 2 (f)	VIII, 2 (f)	VIII, 2 (f)
VIII, 3						VIII, 1	VIII, 1	VIII, 1 (b)	VIII, 3	VIII, 3	VIII, 3
VIII, 4	cf. 8 (2) (b)					VIII, 3	VIII, 3	VIII, 3	VIII, 4	VIII, 4	VIII, 4
VIII, 5	cf. 8 (1, 3, 6)					VIII, 4	VIII, 4	VIII, 4	VIII, 5	VIII, 5	VIII, 5
VIII, 5 (a)	cf. 8 (1)					VIII, 4 (a)	VIII, 4 (a)	VIII, 4 (a)	VIII, 5 (a)	VIII, 5 (a)	VIII, 5 (a)
VIII, 5 (b)						VIII, 4 (b)	VIII, 4 (b)	VIII, 4 (b)	VIII, 5 (b)	VIII, 5 (b)	VIII, 5 (b)
VIII, 5 (c)						VIII, 4 (c)	VIII, 4 (c)	VIII, 4 (c)	VIII, 5 (c)	VIII, 5 (c)	VIII, 5 (c)
VIII, 5 (d)							VIII, 4 (e)	VIII, 4 (d)	VIII, 5 (d)	VIII, 5 (d)	VIII, 5 (d)
VIII, 5 (e)	cf. 8 (3, 4)					VIII, 4 (e)	VIII, 4 (f)	VIII, 4 (e)	VIII, 5 (e)	VIII, 5 (e)	VIII, 5 (e)
VIII, 5 (e) (i)							VIII, 4 (f) (i)	VIII, 4 (e) (i)	VIII, 5 (e) (i)	VIII, 5 (e) (i)	VIII, 5 (e) (i)
VIII, 5 (e) (ii)							VIII, 4 (f) (ii)	VIII, 4 (e) (ii)	VIII, 5 (e) (ii)	VIII, 5 (e) (ii)	VIII, 5 (e) (ii)
VIII, 5 (e) (iii)									VIII, 5 (e) (iii)	VIII, 5 (e) (iii)	VIII, 5 (e) (iii)
VIII, 5 (e) (iv)							VIII, 4 (f) (iii)	VIII, 4 (e) (iii)	VIII, 5 (e) (iv)	VIII, 5 (e) (iv)	VIII, 5 (e) (iv)

Parallel Table for Texts of SOFA 1—Continued

Final Text	Brussels Stat. 12/21/1949	D-D(51) 23	MS-D (51)5	MS-D (51)9	MS-D (51)11	MS-D (51) 11(R)	MS-D (51) 11(2R)	D-D (51)57	MS-D (51)28	D-D (51)127	D-D (51)138
6/19/1951	1/23/1951	2/12/1951	2/16/1951	2/19/1951	2/20/1951	2/24/1951	2/28/1951	4/27/1951	5/7/1951	6/1/1951	
VIII, 5(f)						VIII, 4(f) (iv)	VIII, 4(e) (iv)	VIII, 5(f)	VIII, 5(f)	VIII, 5(f)	VIII, 5(f)
VIII, 5(g)						VIII, 4(f)	VIII, 4(f)	VIII, 5(g)	VIII, 5(g)	VIII, 5(g)	VIII, 5(g)
VIII, 5(h)						VIII, 5	VIII, 4(end)	VIII, 5(h)	VIII, 5(h)	VIII, 5(h)	VIII, 5(h)
VIII, 6	9					VIII, 6	VIII, 5	VIII, 6	VIII, 6	VIII, 6	VIII, 6
VIII, 7	10					VIII, 6	VIII, 6	VIII, 7	VIII, 7	VIII, 7	VIII, 7
VIII, 8	cf.8(7), 9(3)					VIII, 7	VIII, 7	VIII, 9;	VIII, 9;	VIII, 9	VIII, 8
VIII, 10						VIII, 4(d)	VIII, 8	VIII, 10	VIII, 10	VIII, 10	VIII, 9
	8(4)										VIII, 10
	8(5)										
IX, 1	11(1)	VIII, 1	VIII, 1	IX, 1	IX, 1	IX, 1	IX, 1	IX, 1	IX, 1	IX, 1	IX, 1
IX, 2	11(2)	VIII, 2	VIII, 2	IX, 2	IX, 2	IX, 2	IX, 2	IX, 2	IX, 2	IX, 2	IX, 2
IX, 3	11(3)	VIII, 3	VIII, 3	IX, 3	IX, 3	IX, 3	IX, 3	IX, 3	IX, 3	IX, 3	IX, 3
IX, 4	11(4)	VIII, 4	VIII, 4	IX, 4	IX, 4	IX, 4	IX, 4	IX, 4	IX, 4	IX, 4	IX, 4
IX, 5	11(5)	VIII, 5	VIII, 5	IX, 5	IX, 5	IX, 5	IX, 5	IX, 5	IX, 5	IX, 5	IX, 5
IX, 6	11(6)	VIII, 6	VIII, 6	IX, 6	IX, 6	IX, 6	IX, 6	IX, 6	IX, 6	IX, 6	IX, 6
IX, 7	11(7)	VIII, 7	VIII, 7	IX, 7	IX, 7	IX, 7	IX, 7	IX, 7	IX, 7	IX, 7	IX, 7
IX, 8	11(8)	VIII, 8	VIII, 8	IX, 8	IX, 8	IX, 8	IX, 8	IX, 8	IX, 8	IX, 8	IX, 8
X, 1	cf.12(1) (a), 12(2)	IX				X, 1	X, 1	X, 1	X, 1	X, 1	X, 1

Final Text	Brussels Stat. 12/21/1949	D-D(51) 23	MS-D (51)5	MS-D (51)9	MS-D (51)11	MS-D (51) 11(R)	MS-D (51) 11(2R)	D-D (51)57	MS-D (51)28	D-D (51)127	D-D (51)138
6/19/51		1/23/1951	2/12/1951	2/16/1951	2/19/1951	2/20/1951	2/24/1951	2/28/1951	4/27/1951	5/7/1951	6/1/1951
X, 2		IX				X, 2	X, 2	X, 2	X, 2	X, 2	X, 2
X, 3								X, 3	X, 3	X, 3	X, 3
X, 4									X, 4	X, 4	X, 4
XI, 1	13(1)	X, 1		X, 1	XI, 1	XI, 1	XI, 1	XI, 1	XI, 1	XI, 1	XI, 1
XI, 2	13(2)	X, 2		X, 2	XI, 2	XI, 2	XI, 2	XI, 2	XI, 2	XI, 2	XI, 2
XI, 3	13(3)	X, 3		X, 3	XI, 3	XI, 3	XI, 3	XI, 3	XI, 3	XI, 3	XI, 3
XI, 4	13(4)	X, 4		X, 4	XI, 4	XI, 4	XI, 4	XI, 4	XI, 4	XI, 4	XI, 4
XI, 5		X, 4		X, 5	XI, 5	XI, 5	XI, 5	I, 5	XI, 5	XI, 5	XI, 5
XI, 6	12(1)(b)	IX, 1(b)		X, 6	XI, 6	XI, 6	XI, 6	XI, 6	XI, 6	XI, 6	XI, 6
XI, 7	13(4)			X, 7	XI, 7	XI, 7	XI, 7	XI, 7	XI, 7	XI, 7	XI, 7
XI, 8	13(5)	X, 5		X, 8	XI, 8	XI, 8	XI, 8	XI, 8	XI, 8	XI, 8	XI, 8
XI, 9	13(6)	X, 6		X, 9	XI, 9	XI, 9	XI, 9	XI, 9	XI, 9	XI, 9	XI, 9
XI, 10	13(7)	X, 7		X, 10	XI, 10	XI, 10	XI, 10	XI, 10	XI, 10	XI, 10	XI, 10
XI, 11	13(8)	X, 8		X, 11	XI, 11	XI, 11	XI, 11	XI, 11	XI, 11	XI, 11	XI, 11
XI, 12				X, 12	XI, 12	XI, 12	XI, 12	XI, 12	XI, 12	XI, 12	XI, 12
XI, 13									XI, 13	XI, 13	XI, 13
XII	14	XI		XI	XII	XII	XII	XII	XII	XII	XII
XIII, 1	15(1)	XII, 1		XII, 1	XIII, 1	XIII, 1	XIII, 1	XIII, 1	XIII, 1	XIII, 1	XIII, 1
XIII, 2	15(2)	XII, 2		XII, 2	XIII, 2	XIII, 2	XIII, 2	XIII, 2	XIII, 2	XIII, 2	XIII, 2
XIII, 3	15(3)	XII, 3		XII, 3	XIII, 3	XIII, 3	XIII, 3	XIII, 3	XIII, 3	XIII, 3	XIII, 3
XIII, 4	15(4)			XII, 4	XIII, 4	XIII, 4	XIII, 4	XIII, 4	XIII, 4	XIII, 4	XIII, 4
XIV	16	XIII		XIII	XIV	XIV	XIV	XIV	XIV	XIV	XIV
XV, 1		c.f. VI, 10					XV, 1	XV, 1	XV, 1	XV, 1	XV, 1
XV, 2	17	XIV				XV	XV, 2	XV, 2	XV, 2	XV, 2	XV, 2
XVI	18	XV				XVI	XVI	XVI	XVI	XVI	XVI

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Final Text	D-D (51)58	MS-D (51)24	MS-D (51)25	MS-D (51)29	MS-D(51) 29(R)	MS-D(51) 29(2R)
9/20/1951	3/1/1951	4/16/1951	4/20/1951	5/5/1951	6/11/1951	6/15/1951
Title	Title	Title	Title	Title	Title	Title
Preamble	Preamble	Preamble	Preamble	Preamble	Preamble	Preamble
Part I	I	I	I	I	I	I
Part II	II-IV, VIII	II-III	II-IV	II-IV	II	II
Part III	V, VIII		V	V	III	III
Part IV	VI-VIII		VI-VII	VI-VII	IV	IV
Part V	IX		VIII	VIII	V	V
Part VI	X		IX	IX	VI	VI
Part VII	XI		X	X	VII	VII
1(a)		1(a)	1(a)	1(a)	1(a)	1(a)
1(b)	1(a)	1(b)		1(b)	1(b)	1(b)
1(c)	1(b)	1(c)	1(b)	1(c)	1(c)	1(c)
	1(c)	1(d)				
1(d)						1(d)
			2			
2			3	2	2	2
3	2	2	4	3	3	3
4	3[1]	3[1]	5(1)	4	4	4
	3[2]	3[2]	5(2)			
5	4	4	6	5	5	5
6	5	5	7	6	6	6
7	6	6	8	7	7	7
8	7	7	9	8	8	8
9	8	8	10	9	9	9
10	9	9	11	10	10	10
			12	11		11(1)
						11(2)
11	10		13	12	11	12
12	cf.11-12		14	13	12	13
13(1)	11-12; cf.18		15(1)	14(1)	13(1)	14(1)
13(2)	13		15(2)	14(2)	13(2)	14(2)
13(3)			15(3)	14(3)	13(3)	14(3)
14			16	15	14	15
16	14		17	16	15	16
16	15		18	17	16	17
17	16		19	18	17	18
18	17		20	19	18	19

¹ The final printed text, signed on 20 September 1951, was distributed as D-D(51) 178(F). This text is reproduced at p. 34, *supra*. The text contained in D-D(51) 178 has been omitted from the parallel tables, since it is identical with the final text except for the following minor variations: (a) The square brackets found in Article 18(b) and 18(d) of D-D(51) 178 are omitted from the final text; and (b) the final text shows Ottawa as the place of signature, with the date as 20 September 1951. *References in the parallel table indicate treatment of the same subject matter in the places referred to, and not necessarily identity of text.*

Parallel Tables for Texts of CIVA ¹—Continued

Final Text	D-D (51)58	MS-D (51)24	MS-D (51)25	MS-D (51)29	MS-D (51)29(R)	MS-D(51) 29(2R)
9/20/1951	3/1/1951	4/16/1951	4/20/1951	5/5/1951	6/11/1951	6/15/1951
	18					
19	cf.17(b)		cf.20(b)	cf.19(b)	cf.18(b)	cf.19(b)
20			21	20	19	20
21(1)	20		23	22	20(1)	21(1)
21(2)					20(2)	21(2)
22	19, 21		22, 24	21, 23	21	22
	22					
23					22	23
24	23		25	24	23	24
25	24		26	25	24	25
26	25		27	26	25	26
27						

Parallel Table for Texts of PROT 1

Final Text	D-D(51) 300	D-D(51) 300(R)	MS-D (52)3	D-D (52)27	MS-D (52)6	MS-D (51)6(R)
8/28/1952	12/12/1951	1/3/1952	1/18/1952	1/23/1952	3/27/1952	5/5/1952
Title	Title	Title	Title	Title	Title	Title
Preamble			Preamble	Preamble	Preamble	Preamble
1(a)	2(a)	2(a)	1(a)	1(a)	1(a)	1(a)
1(b)	cf.2(b-d)	cf.2(b-d)	1(b)	1(b)	1(b)	1(b)
1(c)	cf.2(b-d)	cf.2(b-d)	1(c)	1(c)	1(c)	1(c)
1(d)				1(d)	1(d)	1(d)
2	1	1	2	2	2	2
3(1) (a)			3(a)	3(a)	3(1) (a)	3(1) (a)
3(1) (b)			3(b)	3(b)	3(1) (b)	3(1) (b)
3(1) (c)				3(c)	3(1) (c)	3(1) (c)
3(2)						8
	3(a)	3(a)				
4[1] (a)	cf.3(b)	cf.3(b)	4(a)	4(a)	4(a)	4[1] (a)
4[1] (b)	cf.3(b)	cf.3(b)	4(b)	4(b)	4(b)	4[1] (b)
4[1] (c)	cf.3(b)	cf.3(b)	4(c)	4(c)	4(c)	4[1] (c)
4[1] (d)	cf.3(b)	cf.3(b)		4(d)	4(d)	4[1] (d)
4[2]	cf.3(b)	cf.3(b)			4(d)	4[2]
5	4	4	5	5	5	5
			6	6	6	6
6(1)						
6(2) (a)						7(1) (a)
6(2) (b)						7(1) (b)
6(2) (c)						7(1) (c)
6(3)						7(2)
	5	5				
7(1)			7	7	7(1-2)	9(1)
7(2)						9(2)
8(1)					8(1)	10(1)
8(2)					8(2)	10(2)
8(3)						10(3)
8(4)					8(3)	10(4)
9(a)					9(1)	11(1)
9(b)	6	6			9(2)	11(2)
10	7	7	8	8	10	12
11(1)	8	8	9(1)	9(1)	11(1)	13(1)
11(2)	8	8	9(2)	9(2)	11(2)	13(2)
12(1)	9(a)	9(a)	10(1)	10(1)	12(1)	14(1)
12(2)	9(b)	9(b)	10(2)	10(2)	12(2)	14(2)
13	10	10	11	11	13	15

¹ The final printed text, signed on 28 August 1952, was distributed as C-M(52) 30(F). This text is reproduced at p. 43, *supra*. The text contained in C-M(52) 30 (7 June 1952) has been omitted from the parallel tables, since it is identical with the final text except for the following minor variations: (a) The words "and for their official and exclusive benefit" do not appear in Article 8, paragraph 1, of C-M(52) 30; and (2) the draft Protocol, C-M(52) 30, does not contain the date of signature nor the actual signatures. *The parallel references indicate treatment of the same subject matter in the place referred to, and not necessarily identity of text.*

Parallel Table for Texts of PROT ¹—Continued

Final Text	D-D(51) 300	D-D(51) 300(R)	MS-D (52)3	D-D (52)57	MS-D (52)6	MS-D (52)6(R)
8/28/1952	12/12/1951	1/3/1952	1/18/1952	1/23/1952	3/27/1952	5/5/1952
	11	11				
		12				
14(1)				12	14(1)	16(1)
14(2)					14(2)	16(2)
15			12	13	15	17
16(1)	12-13	13-14	13(1)	14(1)	16(1)	18(1)
16(2)	12	13	13(2)	14(2)	16(2)	18(2)

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